

This is a redlined-version showing proposed changes to SB 892 submitted by California Families Against Solitary Confinement, Center for Human Rights and Constitutional Law, and various organizations and faith-based and labor leaders via letter to Senator Kevin de León, Chair, Appropriations Committee, Senator Loni Hancock, and other Senators dated April 25, 2014. Suggested text to delete is struck out below; suggested additions appear in italics. The suggested changes would likely result in cost-savings in excess of \$50M/year

AMENDED IN SENATE APRIL 2, 2014

AMENDED IN SENATE MARCH 18, 2014

SENATE BILL

No. 892

Introduced by Senator Hancock

(Coauthors: Senators De León, Lara, Leno, and Steinberg)

- January 13, 2014

An act to amend Section 12838.1 of the Government Code, and to amend Sections 2932 and, 2933.6, and 6126 of, and to add Article 7 (commencing with Section 2696) to Chapter 4 of Title 1 of Part 3 of, the Penal Code, relating to state prisons.

legislative counsel's digest

SB 892, as amended, Hancock. State prisons.

Existing law establishes the Department of Corrections and Rehabilitation to oversee the state prison system. Existing law authorizes the Governor to appoint 4 officers, subject to Senate approval, to the Division of Adult Institutions within the Department of Corrections and Rehabilitation, to oversee specified categories of adult institutions.

This bill would authorize an additional officer appointment by the Governor, to oversee the ~~security threat group validation~~ and Security Housing Unit operations and conditions within that division.

Existing law authorizes Security Housing Units for segregation of certain prisoners for disciplinary or security purposes, and because of gang membership or association.

This bill would require specified due process procedures for determining if an inmate is a member of or an associate of a gang, and subject to placement in a Security Housing Unit. The bill would require the Office of the Inspector General, commencing July 1, 2015, to review

every determination completed on or after July 1, 2015, prior to the offender being placed in a Security Housing Unit, and in which confidential information was used, ~~that an inmate is a gang member or associate~~, to determine whether the minimum level of due process was provided and that the determination was supported by the evidence. If the Inspector General concludes that the determination was not supported by the evidence, or that the inmate was not provided the minimum level of due process, ~~the gang member or associate classification would be deleted and~~ the inmate would not be placed in a Security Housing Unit.

The bill would require an inmate subject to an indeterminate Security Housing Unit term to be placed in a multistep program designed to promote positive behavior ~~and cessation of gang-related activities~~, and promotion of successful assimilation of the inmate back into the general prison population. The bill would require the Inspector General, on or before July 1, 2016, to review the central files of each inmate who is subject to an indeterminate Security Housing Unit term who is denied progression within the program to assess the department's compliance with the program.

The bill would require an inmate subject to a determinate Security Housing Unit term to receive an individualized plan to address the conduct giving rise to the term in the Security Housing Unit, and to promote successful assimilation back into the general prison population. The bill would authorize an inmate serving a determinate Security Housing Unit term to earn credits toward reducing that term.

The bill would require the Inspector General, commencing July 1, 2016, and annually thereafter, to provide an audit report to the Governor and the Legislature of inmates subject to a determinate term in a Security Housing Unit to assess compliance by the department.

The bill would require an inmate in a Security Housing Unit or Psychiatric Services Unit to have access to educational programming, to have daily face-to-face interaction with uniformed and civilian staff, to have access to radio or television, and the opportunity to earn additional specified privileges and credits towards reduction of the inmate's sentence. The bill would require the Inspector General, on or before July 1, 2016, and biennially thereafter, to perform an audit to assess the department's compliance with these provisions.

The bill would require mental health screening for an inmate placed in the Security Housing Unit and subsequent mental health assessments, as specified. The bill would require the Inspector General, on or before

July 1, 2016, and biennially thereafter, to perform an audit to assess the department's compliance with these provisions. The bill would require the department to employ 2 ombudsmen to act as offender resource specialists at each Security Housing Unit and Psychiatric Services Unit, to be responsible for, among other things, assisting an inmate with concerns about the inmate's responsibilities and rights during confinement in one of those units, and responding to an inmate's family member's inquiries. The bill would require the Inspector General to employ 2 secured housing specialists for each Security Housing Unit and Psychiatric Services Unit to monitor the programming and conditions of those security housing units.

The bill would require the department, commencing July 1, 2015, to collect specified data regarding inmates subject to a term in a Security Housing Unit. The bill would require the Inspector General, commencing January 1, 2017, and biennially thereafter, to use the data to prepare reports for the Legislature on specified criteria pertaining to inmates in a Security Housing Unit and a Psychiatric Services Unit.

Existing law provides that an inmate placed in a Security Housing Unit for specified crimes or because of gang association or membership, or placed in a Psychiatric Services Unit, is ineligible to earn credits towards reducing his or her sentence during the time the inmate is in the Security Housing Unit.

This bill would provide that ~~those~~ inmates would be eligible to earn credits toward reducing their sentences while in a Security Housing Unit or Psychiatric Services Unit for a period during which the inmate has been free of disciplinary action for 6 consecutive months.

The bill would state findings and declarations by the Legislature relative to Security Housing Units and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) Prisons serve a vital role in California's public safety and
- 3 criminal justice system. The prison system also is an increasingly
- 4 expensive government program.
- 5 (b) The mission of the Department of Corrections and
- 6 Rehabilitation is to enhance public safety through safe and secure
- 7 incarceration of the most serious and violent offenders, and to

1 provide effective parole supervision and rehabilitative strategies
2 for the successful reintegration of offenders into our communities.

3 (c) The criminal justice system must be transparent and include
4 performance measures that hold it accountable for its results in
5 protecting the public, reducing reoffending, and conserving
6 taxpayers' money.

7 (d) Currently, California places an offender in a setting isolated
8 from the general prison population solely because the offender is
9 a gang member. An offender is labeled a gang member or gang
10 associate through a process that is completely internal within the
11 department and that is not subject to any systematic independent
12 oversight.

*This bill will change CDCR policy by requiring CDCR to place
offenders in Security Housing Units (SHUs) only for serious
misconduct and offenses pursuant to section 2933.6 subdivision (b)
and will prevent CDCR from placing inmates in SHUs solely
based on their alleged status as gang associates or members*

13 (e) An offender in the Security Housing Unit is locked in a cell
14 for up to 23 hours a day. These offenders are typically given
15 minimal outdoor time alone in small, separately secured yards,
16 and eat their meals in their cells. An offender in a Security Housing
17 Unit cannot make phone telephone calls and has very limited access
18 to family member visits.

19 (f) As of February 27, 2014, there were 2,483 offenders serving
20 indeterminate terms in the Security Housing Unit and 1,466
21 offenders serving determinate terms in the Security Housing Unit
22 in California state prisons.

23 (g) As of February 27, 2014, there were 39 offenders who had
24 been in the Security Housing Unit for more than 25 years, and 46
25 offenders who had been in the Security Housing Unit for more
26 than 20 years. According to the department, the average time an
27 offender spends in the Security Housing Unit is 6.8 years.

28 (h) Mental health professionals and researchers have found that
29 offenders in solitary confinement, especially for an extended time,
30 suffer from a number of psychological and psychiatric illnesses.
31 Those illnesses include aggression, chronic insomnia, anxiety,
32 panic attacks, extreme paranoia, and an offender often exhibits the
33 signs and symptoms of psychosis, including hallucinations.

34 (i) Between September 2012 and September 2013, 273 offenders
35 were paroled directly into our communities from the Security
36 Housing Unit.

37 (j) Long-term segregated housing as a prison management
38 strategy should be used only as a last resort and should be limited
39 in duration. The conditions of confinement should include

1 evidence-based programs designed to return the offender to the
2 general prison population.

3 SEC. 2. Section 12838.1 of the Government Code is amended
4 to read:

5 12838.1. (a) There is hereby created within the Department
6 of Corrections and Rehabilitation, under the Undersecretary for
7 Administration and Offender Services, the following divisions:

8 (1) The Division of Enterprise Information Services, the
9 Division of Facility Planning, Construction, and Management, and
10 the Division of Administrative Services. Each division shall be
11 headed by a director, who shall be appointed by the Governor,
12 upon recommendation of the secretary, subject to Senate
13 confirmation, who shall serve at the pleasure of the Governor.

14 (2) The Division of Internal Oversight and Research. This
15 division shall be headed by a director, who shall be appointed by
16 the Governor, upon recommendation of the secretary, who shall
17 serve at the pleasure of the Governor.

18 (b) There is hereby created in the Department of Corrections
19 and Rehabilitation, under the Undersecretary for Health Care
20 Services, the Division of Health Care Operations and the Division
21 of Health Care Policy and Administration. Each division shall be
22 headed by a director, who shall be appointed by the Governor,
23 upon recommendation of the secretary, subject to Senate
24 confirmation, who shall serve at the pleasure of the Governor.

25 (c) There is hereby created within the Department of Corrections
26 and Rehabilitation, under the Undersecretary for Operations, the
27 Division of Adult Institutions, the Division of Adult Parole
28 Operations, the Division of Juvenile Justice, and the Division of
29 Rehabilitative Programs. Each division shall be headed by a
30 director, who shall be appointed by the Governor, upon
31 recommendation of the secretary, subject to Senate confirmation,
32 who shall serve at the pleasure of the Governor.

33 (d) The Governor shall, upon recommendation of the secretary,
34 appoint five subordinate officers to the Division of Adult
35 Institutions, subject to Senate confirmation, who shall serve at the
36 pleasure of the Governor. Each subordinate officer appointed
37 pursuant to this subdivision shall oversee an identified category
38 of adult institutions, one of which shall be female offender
39 facilities, and one that shall oversee ~~security threat group validation~~
40 ~~and~~ Security Housing Unit operations and conditions, as described

1 in Article 7 (commencing with Section 2696) of Chapter 4 of Title
2 1 of Part 3 of the Penal Code.

3 (e) (1) Unless the context clearly requires otherwise, whenever
4 the term “Chief Deputy Secretary for Adult Operations” appears
5 in any statute, regulation, or contract, it shall be construed to refer
6 to the Director of the Division of Adult Institutions.

7 (2) Unless the context clearly requires otherwise, whenever the
8 term “Chief Deputy Secretary for Adult Programs” appears in any
9 statute, regulation, or contract, it shall be construed to refer to the
10 Director of the Division of Rehabilitative Programs.

11 (3) Unless the context clearly requires otherwise, whenever the
12 term “Chief Deputy Secretary for Juvenile Justice” appears in any
13 statute, regulation, or contract, it shall be construed to refer to the
14 Director of the Division of Juvenile Justice.

15 SEC. 3. Article 7 (commencing with Section 2696) is added
16 to Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:

17

18 Article 7. The Security Housing Unit

19

20 2696. The terms below, as used in this article, are defined as
21 follows:

22 (a) “Custody” means the offender is in the physical custody of
23 the Department of Corrections and Rehabilitation.

24 (b) “Determinate Security Housing Unit term” means the
25 offender is placed in the Security Housing Unit for a determinate
26 period of time because the offender was found guilty of a serious
27 offense, as described in the department’s regulations.

28 (c) “Indeterminate Security Housing Unit term” means that an
29 offender is assigned to the Security Housing Unit for an
30 indeterminate period. These offenders include security threat group
31 affiliates and offenders in protective custody.

32 (d) “Psychiatric Services Unit” means a facility designed and
33 staffed to treat mentally disordered offenders who are serving
34 terms in the Security Housing Unit.

35 (e) “Security Housing Unit” means housing for an offender who
36 is a difficult management case, ~~a security threat group member,~~
37 or a maximum security offender. There are four Security Housing
38 Units in the state prison system located in Pelican Bay State Prison,
39 California State Prison, Corcoran, California Institution for
40 Women, and California Correctional Institution.

1 (f) “Security threat group,” which is used synonymously with
 2 the term “gang,” means any ongoing formal or informal
 3 organization, association, or group of three or more persons that
 4 has a common name or identifying sign or symbol whose members
 5 and associates, individually or collectively, engage or have engaged
 6 on behalf of that organization, association, or group, in two or
 7 more acts that include planning, organizing, threatening, financing,
 8 soliciting, or committing unlawful acts or misconduct.

9 (g) “Security threat group affiliate” means an offender who has
 10 been validated as either a member or associate of a security threat
 11 group.

12 (h) “Security threat group validation” means the process used
 13 by the department to identify and document an offender affiliated
 14 with a security threat group.

15 2696.5. (a) The department shall provide an offender due
 16 process prior to validating an offender in its custody as a security
 17 threat group affiliate. An *offender who is being considered for*

placement in a security housing unit shall be afforded, at a minimum,

18 the following procedural protections:

19 (1) Timely, written, and effective notice that *placement in a*
 20 *security housing unit* security threat group validation
 21 is being considered, and the facts upon which
 22 that consideration is based.

23 (2) Decisionmaking by a dedicated and specially trained
 24 classification committee.

25 (3) A hearing at which the offender may be heard in person and,
 26 absent an individualized determination of good cause, has a
 27 reasonable opportunity to present available witnesses and
 28 information.

29 (4) An interpreter, if necessary, for the offender to understand
 30 or participate in the proceedings.

31 (5) An advocate, *including an attorney at no expense to the State,*
 32 to assist with the offender’s investigation *and presentation of his case.*

33 (6) An independent determination by the committee of the
 34 reliability and credibility of confidential informants. Information
 35 supplied by an informant shall only be considered by the committee
 36 if there is a finding that the informant has personal and actual
 37 knowledge of the information he or she has provided.

*Additionally, the use of testimony of an in-custody informant
 must be corroborated by at least one additional independent
 source before being used to place an inmate in a SHU, pursuant
 to section 2697.5(b) Corroboration of in-custody informant.*

38 (7) A written statement in plain language setting forth the
 39 specific evidence relied upon, and the reasons for, *placement in a*
 40 *security housing unit* validation.

(b) Commencing July 1, 2015, the Office of the Inspector
 General shall, prior to placement of an offender in a Security
 Housing Unit, review *every determination for placement in a*
security housing unit every security threat group validation

1 completed on or after July 1, 2015, in which confidential
2 information was used, to determine whether the minimum level
3 of due process was provided to the ~~validated~~ offender and that the
4 ~~validation~~ *determination*
was supported by the evidence. If the Office of Inspector

5
6 General concludes that the ~~security threat group validation~~ *deter*
7 *mination* was
8 not supported by the evidence or that the offender was not provided
9 the minimum level of due process, the ~~offender's gang validation~~
~~shall be deleted~~ and the offender shall not be placed in the Security
Housing Unit.

*An inmate may only be assigned to a Security Housing Unit for
an offense specified in section 2933.6 (b).*

10 2697. (a) Commencing on January 1, 2015, an offender who
11 is serving an indeterminate Security Housing Unit term, and
12 thereafter, an offender placed in the Security Housing Unit, shall
13 be placed in the Step Down Program. The Step Down Program is
14 a multistep program designed to provide programming with the
15 ultimate goal of returning the offender to the general prison
16 population. The goal of the Step Down Program shall be to return
17 prisoners to the general population as rapidly as possible,
18 consistent with the safety and security of institutions of the
19 department. It shall operate on the presumption that every prisoner
20 who enters the Step Down Program can complete it in a timely
21 manner.

22 (b) Within 30 days of an offender being placed into the Step
23 Down Program, and by July 1, 2015, for all offenders who began
24 serving an indeterminate security housing unit term prior to
25 January 1, 2015, the department shall develop an individualized
26 plan for the offender. The plan shall include, but not be limited to,
27 an assessment of the offender's needs, an individualized strategy
28 to provide the offender with programming to address those needs,
29 and a statement of the expectations for the offender to progress
30 through the Step Down Program. The department shall provide
31 the plan to the offender and explain it so that the offender can
32 understand his or her responsibilities under the plan. A copy of
33 the plan shall be placed in the offender's central file.

34 (c) An offender in the Step Down Program shall be provided
35 with promising or evidence-based programming ~~designed to~~
~~eliminate participation in security threat group-related activities.~~
36 The programming shall include incentives to promote positive
37 behavior. The programming shall also promote the successful
38 assimilation of an offender back into the general prison population.
39 Information obtained from the offender during this programming
40

1 shall not be used in a rules violation report
2 against the offender or to keep the offender in the Security Housing
3 Unit.

4 (d) The department shall track the offender's progress in meeting
5 the requirements of the plan described in subdivision (b).

6 (e) An offender in the Step Down Program shall be assessed by
7 a correctional counselor every 90 days, in order to monitor the
8 offender's progress. The correctional counselor and the offender
9 resource specialist shall meet with the offender and provide the
10 offender with a progress report that outlines what requirements
11 the offender is not meeting and what the offender is expected to
12 do to progress within the Step Down Program. An interpreter shall
13 be provided, if necessary, so that the offender can understand and
14 participate in the assessment. A copy of the report shall be placed
15 in the offender's central file.

16 (f) An offender shall have the opportunity to advance to the
17 next step of the Step Down Program after successful participation
18 in the current step for 180 days.

19 (g) The department shall prepare a comprehensive reentry plan
20 for every offender who will parole directly out of the Security
21 Housing Unit or the Psychiatric Services Unit into the community.

22 (h) On or before July 1, 2016, the Office of the Inspector General
23 shall review the central file of each offender who is denied progress
24 within the Step Down Program to assess the department's
25 compliance with this section.

26 2697.5. (a) Within 30 days of an offender beginning a
27 determinate Security Housing Unit term, and by July 1, 2015, for
28 all offenders who began serving a determinate Security Housing
29 Unit term prior to January 1, 2015, the department shall develop
30 an individualized plan for the offender.

31 The plan shall include an assessment of the offender's
32 needs, an individualized strategy to provide the offender with
33 programming to address those needs, and a statement of the
34 expectations for the offender to progress toward fewer restrictions
35 and lower levels of custody based on the offender's behavior. The
36 department shall provide the plan to the offender and explain it,
37 so that the offender can understand those expectations. A copy of
38 the plan shall be placed in the offender's central file.
39

2697.5 (b) Corroboration of in-custody informant.

(1) An inmate shall not be placed in security housing for longer than 30 days based on the uncorroborated testimony of an in-custody informant. The testimony of an in-custody informant shall be corroborated by other evidence that connects the inmate with the commission of the act alleged to warrant placement in security housing to which the in-custody informant testifies. Corroboration is not sufficient if it merely shows the commission of the act alleged to warrant placement in security housing. Corroboration of an in-custody informant shall not be provided by the testimony of another in-custody informant unless a preponderance of the evidence shows that the in-custody informant has not communicated with another in-custody informant on the subject of the testimony.

(2) As used in this subsection, "in-custody informant" means a person, other than a percipient witness, accomplice, or

coconspirator, whose testimony is based on statements allegedly made by the inmate while both the inmate and the informant were held within a state penal institution or correctional institution. Nothing in this section limits or changes other requirements for corroboration of accomplice testimony prescribed by any other provision of law.

1 (b) An offender serving a determinate Security Housing Unit
2 term shall be provided with promising or evidence-based
3 programming consistent with addressing the conduct giving rise
4 to the offender's determinate Security Housing Unit term. The
5 programming shall promote the successful assimilation of the
6 offender back into the general prison population. Information
7 obtained from the offender during the programming shall not be
8 used in a rules violation report against the
9 offender, or to keep the offender in the Security Housing Unit.

10 (c) The department shall track the offender's progress in meeting
11 the requirements of the plan described in subdivision (a).

12 (d) An offender serving a determinate Security Housing Unit
13 term shall be assessed by a correctional counselor every 90 days,
14 in order to monitor the offender's progress. The correctional
15 counselor and the offender resource specialist shall meet with the
16 offender and provide the offender with a progress report that
17 outlines what requirements the offender is not meeting and what
18 the offender is expected to do to be eligible for additional privileges
19 and early release from the Security Housing Unit. An interpreter
20 shall be provided, if necessary, so that the offender can understand
21 and participate in the assessment. A copy of the report shall be
22 placed in the offender's central file.

23 (e) An offender serving a determinate Security Housing Unit
24 term shall be eligible to earn credits towards early release from
25 the Security Housing Unit. The department shall be responsible
26 for developing guidelines for earning those credits.

27 (f) The department shall prepare a comprehensive reentry plan
28 for every offender who will parole directly out of the Security
29 Housing Unit or Psychiatric Services Unit into the community.

30 (g) (1) Commencing on July 1, 2016, and annually thereafter,
31 the Inspector General shall provide an audit report to the Governor
32 and the Legislature of the offenders serving a determinate Security
33 Housing Unit term to assess the department's compliance with
34 this section.

35 (2) The report required by paragraph (1) shall be submitted in
36 compliance with Section 9795 of the Government Code.

37 2698. (a) An offender placed in the Security Housing Unit or
38 the Psychiatric Services Unit shall be provided with meaningful
39 forms of mental, physical, and social stimulation. Those forms of
40 stimulation shall include, but not be limited to, the following:

1 (1) Access to educational programming, including in-cell
2 programming, that shall be developed for an offender who is not
3 permitted to leave his or her cell.

4 (2) Opportunities to exercise in the presence of other offenders,
5 provided however, that the offenders may be separated by security
6 barriers, if necessary.

7 (3) Daily *meaningful* face-to-face interaction with both uniformed
8 and civilian staff or volunteers.

9 (4) Access to radio or television.

10 (b) The department shall create a behavior-driven progressive
11 incentives program that includes, but is not limited to, the
12 following, for any 30-day period where an offender in the Security
13 Housing Unit or Psychiatric Services Unit does not receive a rules
14 violation report:

15 (1) One additional phone call in the following month.

16 (2) One additional photograph, for a maximum of 10.

17 (3) Four additional hours of recreational yard time in the
18 following month.

19 (c) An offender shall be entitled to the privileges in subdivision
20 (b) if a disciplinary action is reversed, dismissed, or modified to
21 a minor rules violation.

22 (d) An offender is eligible to earn credits pursuant to Section
23 2933 or 2933.05 during the time that he or she is in the Security
24 Housing Unit or the Psychiatric Services Unit as provided in
25 Section 2933.6.

26 (e) On or before July 1, 2016, and biennially thereafter, the
27 Office of the Inspector General shall perform an audit to assess
28 the department's compliance with this section.

29 2698.5. (a) (1) An offender shall undergo a mental health
30 screening by a qualified mental health professional within 30 days
31 before beginning a term in the Security Housing Unit. An offender
32 who has been diagnosed with a serious mental illness or who has
33 a history of serious mental illness and decompensation in
34 segregated settings shall not be placed in the Security Housing
35 Unit.

36 (2) All offenders segregated in a Security Housing Unit as of
37 January 1, 2015, shall undergo a mental health assessment by a
38 qualified mental health professional by March 31, 2015. Prisoners
39 found to be suffering from a serious mental illness shall be removed
40 from the Security Housing Unit.

1 (b) The mental health of an offender in the Security Housing
2 Unit or Psychiatric Services Unit shall be monitored as follows:

3 (1) Correctional staff shall maintain a daily log documenting
4 the offender's behavior.

5 (2) A qualified mental health professional shall, at least weekly,
6 observe offenders conduct rounds in the Security Housing Unit
7 and the Psychiatric Services Unit, speak to unit staff about any
8 unusual behavior or signs of psychological distress or vulnerability
9 of any prisoner in the unit, monitor the psychological condition
10 of all prisoners in the unit, review the offender log, and observe
11 and speak to offenders who are receiving mental health treatment.

12 (3) A qualified mental health professional shall perform a
13 comprehensive mental health assessment of an offender in the
14 Security Housing Unit or the Psychiatric Services Unit every 90
15 days, unless a qualified mental health professional determines that
16 the assessment is unnecessary based on observations made pursuant
17 to paragraphs (1) and (2), except that every offender in the Security
18 Housing Unit or the Psychiatric Services Unit shall be given a
19 comprehensive mental health assessment on at least an annual
20 basis.

21 (c) The department shall provide training to all correctional staff
22 in the Security Housing Unit and Psychiatric Services Unit on how
23 to respond to an individual experiencing a psychiatric crisis in
24 ways that reduce rather than escalate the crisis.

25 (d) On or before July 1, 2016, and biennially thereafter, the
26 Office of the Inspector General shall perform an audit to assess
27 the department's compliance with this section.

28 2699. The department shall
29 employ two ombudsman to act as offender resource specialists for
30 each Security Housing Unit and Psychiatric Services Unit. The
31 offender resource specialist's responsibilities shall include, but
32 not be limited to, the following:

33 (a) Assisting an offender with concerns and questions concerning
34 the offender's responsibilities and rights during confinement in
35 the Security Housing Unit or Psychiatric Services Unit.

36 (b) Responding to inquiries from an offender's family members.

37 (c) Explaining Security Housing Unit and Psychiatric Services
38 Unit policies to the public.

39 2699.5. (a) Commencing July 1, 2015, the department shall
40 collect the following data:

- 1 (1) Information relating to each offender who ~~is going through,~~
2 ~~or~~ has gone through, the validation process for determining a
3 security threat group affiliate, including the following:
- 4 (A) The offender's gender, age, mental health status, and race.
 - 5 (B) The outcome at every step of the validation process.
 - 6 (C) If the offender was validated, the date of validation.
 - 7 (D) If the offender was validated, the level of validation that
8 the offender was assigned.
- 9 (2) Information relating to the offender being housed in the
10 Security Housing Unit or Psychiatric Services Unit, including the
11 following:
- 12 (A) The offender's gender, age, mental health status, and race.
 - 13 (B) The date the offender was placed in the Security Housing
14 Unit or Psychiatric Services Unit and the date of release.
 - 15 (C) The reason the offender is serving a Security Housing Unit
16 term.
 - 17 (D) If the offender is serving an indeterminate Security Housing
18 Unit term, the progress the offender has made in the Step Down
19 Program.
 - 20 (E) For offenders in the Step Down Program, the time spent in
21 each step of the program.
 - 22 (F) The number of visits from persons other than staff that the
23 offender was provided while serving a term in the Security Housing
24 Unit or Psychiatric Services Unit.
 - 25 (G) The number of ~~phone~~ telephone calls the offender was
26 provided while serving a term in the Security Housing Unit.
 - 27 (H) Whether the offender attempted to commit or committed
28 suicide.
 - 29 (I) Any disciplinary action taken against the offender, and the
30 result of that action.
 - 31 (J) Whether the offender was paroled directly out of the Security
32 Housing Unit or the Psychiatric Services Unit into the community.
- 33 (3) The number of administrative appeals filed by offenders in
34 the Security Housing Unit or Psychiatric Services Unit, the subject
35 matter of the appeals, and the outcome of the appeals.
- 36 (b) Commencing January 1, 2017, and biennially thereafter, the
37 Office of the Inspector General shall use the data described in
38 subdivision (a) to prepare a report to the Legislature that includes,
39 but is not limited to, the following information:

1 (1) The number of offenders investigated for security threat
2 group validation.

3 (2) The number of cases in which the Office of Correctional
4 Safety recommended against validation and the outcome of those
5 cases.

6 (3) The number of cases in which the security threat group
7 committee decided not to validate the offender.

8 ~~(4) The number of offenders who were not initially placed in
9 the Security Housing Unit or Psychiatric Services Unit but were
10 sent to the Security Housing Unit or Psychiatric Services Unit
11 within six months of validation.~~

12 (5) The number of offenders placed for an indeterminate
13 Security Housing Unit term or in the Psychiatric Services Unit.

14 (6) The number of offenders placed for a determinate Security
15 Housing Unit term or in the Psychiatric Services Unit.

16 (7) The average length of time offenders serving an
17 indeterminate Security Housing Unit term spent in the Security
18 Housing Unit or the Psychiatric Services Unit, or both.

19 (8) The average length of time offenders spent in each step of
20 the Step Down Program.

21 (9) The number of suicide attempts made by offenders in the
22 Security Housing Unit and the Psychiatric Services Unit.

23 (10) The number of suicides by offenders in the Security
24 Housing Unit and the Psychiatric Services Unit.

25 (11) The number of offenders in the Security Housing Unit and
26 the Psychiatric Services Unit who were paroled directly out of the
27 Security Housing Unit and the Psychiatric Services Unit into the
28 community.

29 (12) The number of disciplinary actions taken against offenders
30 in the Security Housing Unit and the Psychiatric Services Unit,
31 the type of actions, and the outcomes of the disciplinary actions.

32 (13) The number of visits by persons other than staff to offenders
33 in the Security Housing Unit and the Psychiatric Services Unit.

34 (14) The number of phone telephone calls provided to offenders
35 in the Security Housing Unit and the Psychiatric Services Unit.

36 (15) The number of administrative appeals filed by offenders
37 in the Security Housing Unit or the Psychiatric Services Unit, the
38 subject matter of the appeals, and the outcomes of those appeals.

39 (c) The report required by subdivision (b) shall be submitted in
40 compliance with Section 9795 of the Government Code.

1 SEC. 4. Section 2932 of the Penal Code is amended to read:

2 2932. (a) (1) For any time credit accumulated pursuant to
3 Section 2931 or 2933, not more than 360 days of credit may be
4 denied or lost for a single act of murder, attempted murder,
5 solicitation of murder, manslaughter, rape, sodomy, or oral
6 copulation accomplished against the victim's will, attempted rape,
7 attempted sodomy, or attempted oral copulation accomplished
8 against the victim's will, assault or battery causing serious bodily
9 injury, assault with a deadly weapon or caustic substance, taking
10 of a hostage, escape with force or violence, or possession or
11 manufacture of a deadly weapon or explosive device, whether or
12 not prosecution is undertaken for purposes of this paragraph.
13 Solicitation of murder shall be proved by the testimony of two
14 witnesses, or of one witness and corroborating circumstances.

15 (2) Not more than 180 days of credit may be denied or lost for
16 a single act of misconduct, except as specified in paragraph (1),
17 which could be prosecuted as a felony whether or not prosecution
18 is undertaken.

19 (3) Not more than 90 days of credit may be denied or lost for a
20 single act of misconduct which could be prosecuted as a
21 misdemeanor, whether or not prosecution is undertaken.

22 (4) Not more than 30 days of credit may be denied or lost for a
23 single act of misconduct defined by regulation as a serious
24 disciplinary offense by the Department of Corrections and
25 Rehabilitation. Any person confined due to a change in custodial
26 classification following the commission of any serious disciplinary
27 infraction shall, in addition to any loss of time credits, be ineligible
28 to receive participation or worktime credit for a period not to
29 exceed the number of days of credit which have been lost for the
30 act of misconduct or 180 days, whichever is less. Any person
31 confined in a Security Housing Unit for having committed any
32 misconduct specified in paragraph (1) in which great bodily injury
33 is inflicted upon a nonprisoner shall, in addition to any loss of time
34 credits, be ineligible to receive participation or worktime credit
35 for a period not to exceed the number of days of credit which have
36 been lost for that act of misconduct. In unusual cases, an inmate
37 may be denied the opportunity to participate in a credit qualifying
38 assignment for up to six months beyond the period specified in
39 this subdivision if the Secretary of the Department of Corrections
40 and Rehabilitation finds, after a hearing, that no credit qualifying

1 program may be assigned to the inmate without creating a
2 substantial risk of physical harm to staff or other inmates. At the
3 end of the six-month period and of successive six-month periods,
4 the denial of the opportunity to participate in a credit qualifying
5 assignment may be renewed upon a hearing and finding by the
6 director.

7 (5) The prisoner may appeal the decision through the
8 department's review procedure, which shall include a review by
9 an individual independent of the institution who has supervisory
10 authority over the institution.

11 (b) For any credit accumulated pursuant to Section 2931, not
12 more than 30 days of participation credit may be denied or lost for
13 a single failure or refusal to participate. Any act of misconduct
14 described by the Department of Corrections and Rehabilitation as
15 a serious disciplinary infraction if committed while participating
16 in work, educational, vocational, therapeutic, or other prison
17 activity shall be deemed a failure to participate.

18 (c) Any procedure not provided for by this section, but necessary
19 to carry out the purposes of this section, shall be those procedures
20 provided for by the Department of Corrections and Rehabilitation
21 for serious disciplinary infractions if those procedures are not in
22 conflict with this section.

23 (1) (A) The Department of Corrections and Rehabilitation shall,
24 using reasonable diligence to investigate, provide written notice
25 to the prisoner. The written notice shall be given within 15 days
26 after the discovery of information leading to charges that may
27 result in a possible denial of credit, except that if the prisoner has
28 escaped, the notice shall be given within 15 days of the prisoner's
29 return to the custody of the secretary. The written notice shall
30 include the specific charge, the date, the time, the place that the
31 alleged misbehavior took place, the evidence relied upon, a written
32 explanation of the procedures that will be employed at the
33 proceedings and the prisoner's rights at the hearing. The hearing
34 shall be conducted by an individual who shall be independent of
35 the case and shall take place within 30 days of the written notice.

36 (B) The Department of Corrections and Rehabilitation may
37 delay written notice beyond 15 days when all of the following
38 factors are true:

1 (i) An act of misconduct is involved which could be prosecuted
2 as murder, attempted murder, or assault on a prison employee,
3 whether or not prosecution is undertaken.

4 (ii) Further investigation is being undertaken for the purpose of
5 identifying other prisoners involved in the misconduct.

6 (iii) Within 15 days after the discovery of information leading
7 to charges that may result in a possible denial of credit, the
8 investigating officer makes a written request to delay notifying
9 that prisoner and states the reasons for the delay.

10 (iv) The warden of the institution approves of the delay in
11 writing.

12 The period of delay under this paragraph shall not exceed 30
13 days. The prisoner's hearing shall take place within 30 days of the
14 written notice.

15 (2) The prisoner may elect to be assigned an employee to assist
16 in the investigation, preparation, or presentation of a defense at
17 the disciplinary hearing if it is determined by the department that
18 either of the following circumstances exist:

19 (A) The prisoner is illiterate.

20 (B) The complexity of the issues or the prisoner's confinement
21 status makes it unlikely that the prisoner can collect and present
22 the evidence necessary for an adequate comprehension of the case.

23 (3) The prisoner may request witnesses to attend the hearing
24 and they shall be called unless the person conducting the hearing
25 has specific reasons to deny this request. The specific reasons shall
26 be set forth in writing and a copy of the document shall be
27 presented to the prisoner.

28 (4) The prisoner has the right, under the direction of the person
29 conducting the hearing, to question all witnesses.

30 (5) At the conclusion of the hearing the charge shall be
31 dismissed if the facts do not support the charge, or the prisoner
32 may be found guilty on the basis of a preponderance of the
33 evidence.

34 (d) If found guilty the prisoner shall be advised in writing of
35 the guilty finding and the specific evidence relied upon to reach
36 this conclusion and the amount of time-credit loss. The prisoner
37 may appeal the decision through the department's review
38 procedure, and may, upon final notification of appeal denial, within
39 15 days of the notification demand review of the department's
40 denial of credit to the Board of Parole Hearings, and the board

1 may affirm, reverse, or modify the department's decision or grant
2 a hearing before the board at which hearing the prisoner shall have
3 the rights specified in Section 3041.5.

4 (e) Each prisoner subject to Section 2931 shall be notified of
5 the total amount of good behavior and participation credit which
6 may be credited pursuant to Section 2931, and his or her anticipated
7 time-credit release date. The prisoner shall be notified of any
8 change in the anticipated release date due to denial or loss of
9 credits, award of worktime credit, under Section 2933, or the
10 restoration of any credits previously forfeited.

11 (f) (1) If the conduct the prisoner is charged with also
12 constitutes a crime, the department may refer the case to criminal
13 authorities for possible prosecution. The department shall notify
14 the prisoner, who may request postponement of the disciplinary
15 proceedings pending the referral.

16 (2) The prisoner may revoke his or her request for postponement
17 of the disciplinary proceedings up until the filing of the accusatory
18 pleading. In the event of the revocation of the request for
19 postponement of the proceeding, the department shall hold the
20 hearing within 30 days of the revocation.

21 (3) Notwithstanding the notification requirements in this
22 paragraph and subparagraphs (A) and (B) of paragraph (1) of
23 subdivision (c), in the event the case is referred to criminal
24 authorities for prosecution and the authority requests that the
25 prisoner not be notified so as to protect the confidentiality of its
26 investigation, no notice to the prisoner shall be required until an
27 accusatory pleading is filed with the court, or the authority notifies
28 the warden, in writing, that it will not prosecute or it authorizes
29 the notification of the prisoner. The notice exceptions provided
30 for in this paragraph shall only apply if the criminal authority
31 requests of the warden, in writing, and within the 15 days provided
32 in subparagraph (A) of paragraph (1) of subdivision (c), that the
33 prisoner not be notified. Any period of delay of notice to the
34 prisoner shall not exceed 30 days beyond the 15 days referred to
35 in subdivision (c). In the event that no prosecution is undertaken,
36 the procedures in subdivision (c) shall apply, and the time periods
37 set forth in that subdivision shall commence to run from the date
38 the warden is notified in writing of the decision not to prosecute.
39 In the event the authority either cancels its requests that the prisoner
40 not be notified before it makes a decision on prosecution or files

1 an accusatory pleading, the provisions of this paragraph shall apply
2 as if no request had been received, beginning from the date of the
3 cancellation or filing.

4 (4) In the case where the prisoner is prosecuted by the district
5 attorney, the Department of Corrections and Rehabilitation shall
6 not deny time credit where the prisoner is found not guilty and
7 may deny credit if the prisoner is found guilty, in which case the
8 procedures in subdivision (c) shall not apply.

9 (g) If time credit denial proceedings or criminal prosecution
10 prohibit the release of a prisoner who would have otherwise been
11 released, and the prisoner is found not guilty of the alleged
12 misconduct, the amount of time spent incarcerated, in excess of
13 what the period of incarceration would have been absent the alleged
14 misbehavior, shall be deducted from the prisoner's parole period.

15 (h) Nothing in the amendments to this section made at the
16 1981–82 Regular Session of the Legislature shall affect the granting
17 or revocation of credits attributable to that portion of the prisoner's
18 sentence served prior to January 1, 1983.

19 SEC. 5. Section 2933.6 of the Penal Code is amended to read:

20 2933.6. (a) Notwithstanding any other law, a person who is
21 placed in a Security Housing Unit, Psychiatric Services Unit,
22 Behavioral Management Unit, or an Administrative Segregation
23 Unit for misconduct described in subdivision (b) ~~or upon validation~~
24 ~~as a prison gang member or associate~~ is ineligible to earn credits
25 pursuant to Section 2933 or 2933.05 during the time he or she is
26 in the Security Housing Unit, Psychiatric Services Unit, Behavioral
27 Management Unit, or the Administrative Segregation Unit for that
28 misconduct.

29 (b) This section applies to the following offenses:

30 (1) Murder, attempted murder, and solicitation of murder. For
31 purposes of this paragraph, solicitation of murder shall be proven
32 by the testimony of two witnesses, or of one witness and
33 corroborating circumstances.

34 (2) Manslaughter.

35 (3) Assault or battery causing serious bodily injury.

36 (4) Assault or battery on a peace officer or other nonprisoner
37 which results in physical injury.

38 (5) Assault with a deadly weapon or caustic substance.

- 1 (6) Rape, attempted rape, sodomy, attempted sodomy, oral
2 copulation, or attempted oral copulation accomplished against the
3 victim's will.
- 4 (7) Taking a hostage.
- 5 (8) Escape or attempted escape with force or violence.
- 6 (9) Escape from any departmental prison or institution other
7 than a camp or reentry facility.
- 8 (10) Possession or manufacture of a deadly weapon or explosive
9 device.
- 10 (11) Arson involving damage to a structure.
- 11 (12) Possession of flammable, explosive material with intent to
12 burn any structure or property.
- 13 (13) Solicitation of assault with a deadly weapon or assault by
14 means of force likely to produce great bodily injury, arson, or a
15 forcible sex act.
- 16 (14) Intentional destruction of state property in excess of four
17 hundred dollars (\$400) during a riot or disturbance.
- 18 (c) This section does not apply if the administrative finding of
19 the misconduct is overturned or if the person is criminally
20 prosecuted for the misconduct and is found not guilty.
- 21 (d) This section does not apply during any period during which
22 an offender in the Security Housing Unit has remained free of
23 disciplinary action for six consecutive months.
- 24 SEC. 6. Section 6126 of the Penal Code is amended to read:
- 25 6126. (a) The Inspector General shall be responsible for
26 contemporaneous oversight of internal affairs investigations and
27 the disciplinary process of the Department of Corrections and
28 Rehabilitation, pursuant to Section 6133 under policies to be
29 developed by the Inspector General.
- 30 (b) When requested by the Governor, the Senate Committee on
31 Rules, or the Speaker of the Assembly, the Inspector General shall
32 review policies, practices, and procedures of the department. The
33 Inspector General, under policies developed by the Inspector
34 General, may recommend that the Governor, the Senate Committee
35 on Rules, or the Speaker of the Assembly request a review of a
36 specific departmental policy, practice, or procedure that raises a
37 significant correctional issue relevant to the effectiveness of the
38 department. When exigent circumstances of unsafe or life
39 threatening situations arise involving inmates, wards, parolees, or
40 staff, the Inspector General may, by whatever means is most

1 expeditious, notify the Governor, Senate Committee on Rules, or
2 the Speaker of the Assembly.

3 (c) (1) Upon completion of a review, the Inspector General
4 shall prepare a complete written report, which shall be held as
5 confidential and disclosed in confidence, along with all underlying
6 materials the Inspector General deems appropriate, to the requesting
7 entity in subdivision (b) and the appropriate law enforcement
8 agency.

9 (2) The Inspector General shall also prepare a public report.
10 When necessary, the public report shall differ from the complete
11 written report in the respect that the Inspector General shall have
12 the discretion to redact or otherwise protect the names of
13 individuals, specific locations, or other facts that, if not redacted,
14 might hinder prosecution related to the review, or where disclosure
15 of the information is otherwise prohibited by law, and to decline
16 to produce any of the underlying materials. Copies of public reports
17 shall be posted on the Office of the Inspector General's Internet
18 Web site.

19 (d) The Inspector General shall, during the course of a review,
20 identify areas of full and partial compliance, or noncompliance,
21 with departmental policies and procedures, specify deficiencies in
22 the completion and documentation of processes, and recommend
23 corrective actions, including, but not limited to, additional training,
24 additional policies, or changes in policy, as well as any other
25 findings or recommendations that the Inspector General deems
26 appropriate.

27 (e) The Inspector General, pursuant to Section 6126.6, shall
28 review the Governor's candidates for appointment to serve as
29 warden for the state's adult correctional institutions and as
30 superintendents for the state's juvenile facilities.

31 (f) The Inspector General shall conduct an objective, clinically
32 appropriate, and metric-oriented medical inspection program to
33 periodically review delivery of medical care at each state prison.

34 (g) The Inspector General shall conduct an objective,
35 metric-oriented oversight and inspection program to periodically
36 review delivery of the reforms identified in the document released
37 by the Department of Corrections and Rehabilitation in April 2012,
38 entitled The Future of California Corrections: A Blueprint to Save
39 Billions of Dollars, End Federal Court Oversight, and Improve the

1 Prison System (the blueprint), including, but not limited to, the
2 following specific goals and reforms described by the blueprint:

3 (1) Whether the department has increased the percentage of
4 inmates served in rehabilitative programs to 70 percent of the
5 department's target population prior to their release.

6 (2) The establishment of an adherence to the standardized
7 staffing model at each institution.

8 (3) The establishment of an adherence to the new inmate
9 classification score system.

10 (4) The establishment of and adherence to the new prison gang
11 management system, including changes to the department's current
12 policies for identifying prison-based gang members and associates
13 and the use and conditions associated with the department's
14 security housing units.

15 (5) The implementation of and adherence to the Comprehensive
16 Housing Plan described in the blueprint.

17 (h) The Inspector General shall, in consultation with the
18 Department of Finance, develop a methodology for producing a
19 workload budget to be used for annually adjusting the budget of
20 the Office of the Inspector General, beginning with the budget for
21 the 2005–06 fiscal year.

22 (i) The Inspector General shall employ two secured housing
23 specialists for each Security Housing Unit and Psychiatric Services
24 Unit. The secured housing specialists shall monitor the
25 programming and conditions of those security housing units, in
26 addition to assuming any related duties determined by the Inspector
27 General.