

May 15, 2014

Assembly Member Mike Gatto
Chair Committee on Appropriations
Assembly Member Raul Bocanegra
Assembly Member Ian Calderon
Assembly Member Tim Donnelly
Assembly Member Jimmy Gomez
Assembly Member Brian Jones
Assembly Member Richard Pan
Assembly Member Donald Wagner
Assembly Member Sebastian Ridley-Thomas

Assembly Member Frank Bigelow
Vice Chair Committee on Appropriations
Assemblyman Steven Bradford
Assemblyman Nora Campos
Assembly Member Susan T. Eggman
Assembly Member Chris Holden
Assembly Member Eric Linder
Assembly Member Bill Quirk
Assembly Member Shirley Werber

Re: AB 1652 (solitary confinement)

Dear Honorable Chair Gatto, Vice Chair Bigelow and members of the Assembly Committee on Appropriations,

This letter is submitted on behalf of the undersigned organizations and individuals. The California Families Against Solitary Confinement (CFASC) and the Center for Human Rights and Constitutional Law (CHRCL), which represents approximately 450 California prisoners in solitary confinement, as well as many other organizations, have previously communicated to Assembly Member Ammiano our support for AB 1652 but have also suggested relatively minor changes to the bill which would result in cost savings as discussed below.

We are writing to explain the positive impacts enactment of AB 1652 would have and the cost savings it would result in.

To be clear, we have no disagreement with the concept that certain prisoners who have engaged in serious wrongdoing may be placed in some form of solitary confinement for defined periods of time. AB 1652 would not change this policy. Indeed, by reference to Penal Code section 2933.6(b), the bill makes clear that for serious misconduct or crimes prisoners shall be placed in solitary confinement (a segregated housing unit in which the prisoners spends about 23 hours/day in his or her cell).

On the other hand, AB 1652 would end the California Department of Corrections and Rehabilitation's (CDCR) widely criticized policy of placing approximately 2,500 prisoners in solitary confinement for many years *who have engaged in no serious wrong-doing whatsoever but rather are simply suspected of being in a gang*. This policy has been rejected by numerous States and the federal Government (with successful results), and has been criticized by prison security experts, mental health specialists, members of Congress, and groups ranging from the

American Bar Association, Amnesty International, and the United Nations Special Rapporteur on Torture. This unsound policy has caused three costly hunger strikes by thousands of California prisoners in solitary confinement and cost the State hundreds of millions of dollars in unnecessary expenditures that no data shows has made California prisons any more secure or safe.

To date CDCR has produced no data showing that placing thousands of prisoners in solitary confinement based upon mere alleged gang membership with no accompanying serious rule violations increases prison security. The CDCR procedures to “validate” gang members are so discretionary and the factors relied upon so broad as to result in a high error rate in “validation” determinations. In October 2012 CDCR commenced a pilot program to evaluate the cases of validated prisoners. In the past 18 months only about 550 cases were reviewed and of these 355 prisoners released to general population. At this rate it would take about another six years to complete reviews of all validation cases. Whether or not they are actually in gangs, prisoners for obvious reasons often refuse to “disavow” gang association and are therefore not released to the general population.

We believe portions of the Committee’s staff’s report on the bills costs fail to take into account that the three-judge federal court has granted California's request for a two-year extension of time to fully reduce prison overcrowding to the 137.5 percent level required by the U.S. Supreme Court. CDCR may have 8,900 prisoners in out-of-state prisons at any time. CDCR is increasing credits prospectively for non-violent second strikers, so that those prisoners are eligible to earn 33.3% time credits and increasing credits for minimum custody prisoners to 2-1. It is also creating a new parole process through which non-violent second-strikers will be eligible for parole consideration after serving 50% of their sentences. These steps will all contribute to a significant lowering of the general prison population of about 170,000 inmates. Adding approximately 2,000 prisoners to the general population (about 1%) should therefore not have the fiscal impacts anticipated by Committee staff. Prisoners in most facilities with SHUs could easily be permitted yard time like general population prisoners without building new yards. Similarly, they could be permitted to engage in programs, meals, etc. with general population prisoners without modifying existing facilities. The cost savings of not placing validated prisoners in solitary confinement, according to CDCR data, is in the range of \$44-55 million/year

We respectfully recommend that the Committee and Senator Ammiano consider two amendments to AB 1652 that would result in short and long-term cost-savings, though we support the bill whether or not these amendments are adopted:

1. During assessment for SHU placement, the use of statements of an in-custody informant should be corroborated by an independent source. Corroboration cannot be based upon the statements of another in-custody informant unless such in-custody informant obtained the information independently from the first in-custody informant and the information is not based on hearsay. This is essentially the same principle applied in criminal court cases (see Cal. Penal Code §1111.5).

2. Add to Penal Code § 2933.7 data collection language and OIG reports as proposed in SB 892 (Hancock). The data collected will help the legislature to monitor California's use of solitary confinement and at the appropriate time to propose comprehensive reform.

AB 1652 is an obvious first step towards rational reform. It would at least cause the release from solitary confinement of prisoners who have engaged *in no serious wrongdoing*. It would begin to move California in the direction of prison reform taking place throughout the United States to maintain security, increase rehabilitation, and decrease costs.

CDCR publicly claims that it only places “the worst of the worst,” the “gang leaders,” in solitary confinement. With only about four viable gangs in California prisons, there could hardly be about 2,000 to 3,000 leaders. In any event, under CDCR's regulations, no wrong-doing is required at all, let alone being one of the “worst of the worst” to be placed in solitary confinement.

In the event you have any questions, we urge you to please contact Irene Huerta, California Families Against Solitary Confinement, 310-562-1144, or Peter Schey, President, Center for Human Rights and Constitutional Law, who represents hundreds of prisoners in solitary confinement, 323-251-3223. Thank you for your consideration.

Respectfully,

California Families Against Solitary Confinement (CFASC)
Campaign to End the Death Penalty
Center for Human Rights and Constitutional Law (CHRCL)
Center for Prisoner Health and Human Rights
Center for Restorative Justice
Central American Resource Center (*CARECEN-LA*)
Centro Legal de la Raza
Community Futures

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Council on American-Islamic Relations - California (CAIR)

Disability Rights Education & Defense Fund (DREDF)

Disability Legal Rights Center (DLRC)

Families to Amend California's Three Strikes (FACTS)

Hernandad Mexicana Humanitarian Foundation

Homeboy Industries

Homies Unidos

International Longshore and Warehouse Union, Local 13 (ILWU)

Justice Now

Latino Artists for Social Equality

League of United Latin American Citizens (LULAC)

Mexican American Political Association (MAPA)

National Lawyers Guild – Los Angeles Chapter

Students Against Mass Incarceration (UC)

The Freedom Archives

The Seawright Prison Justice Project

William C. Velasquez Institute (WCVI)

Father Gregory Boyle, Executive Director, Homeboy Industries

Javier Stauring, Office of Restorative Justice, Catholic Archdiocese of Los Angeles

Maria Elena Durazo, Executive Secretary-Treasurer, Los Angeles County Federation of Labor (AFL-CIO)

Rabbi Joshua Brumbach, Ahavat Zion Synagogue, Beverly Hills, CA.

Rev. Elizabeth Gibbs Zehnder, Pastor, Immanuel Presbyterian Church

Brent Wilkes, National Executive Director, League of United Latin American Citizens

Heidi L. Rummel, Co-Director of Post-Conviction Justice Project (PCJP)

Angela Sanbrano, President of the Board, Central American Resource Center (Los Angeles)

Jan Elise Sells, M.Ed, M.A, M.F.T., author, Lost and Found: Healing Troubled Teens in Troubled Times

Annabelle Parker, Editor, California Prison Watch

Frank Johnson, Clergy and Laity United for Economic Justice Ventura County

James Lafferty, Executive Director, National Lawyers Guild – LA Chapter

Reynaldo F. Macías, Professor of Chicana/o Studies, Education & Applied Linguistics, UCLA

Mike Farrell (Actor-Activist)

Victor Narro, Esq., UCLA Labor Center
Susan M. Akram, Clinical Professor and Supervising Attorney,
International Human Rights Program, Boston University School of Law
Dr. Nancy Arvold, PhD (Psychologist), Psychologists for Social Responsibility
Dennis R. Childs, Ph.D., Assoc. Professor, University of California, San Diego
Frank Kozakowski, Principal, Loyola High School
Gregorio Estevane, Vice President, Association of Court Panel Investigators,
Chair Jail Committee
Dolores Canales (son incarcerated in Pelican Bay SHU)
Irene Huerta (spouse incarcerated in Pelican Bay SHU)
Christine Thomas (husband incarcerated, formerly in solitary confinement)
Sue Jeffries (son incarcerated in SHU)
Sister Suzanne Jasbro
Sister Jo'Ann De Quattro, SNJM
Sister Elisa Martinez, MSW
Sister Patricia Krommer
Tynan Krakoff (Prison Reform Policy Advocate)
Kimberly Starr (Prison Reform Advocate)
Sarah Torres (Prison Reform Advocate)
Patricia Foley, Organizer, Campaign to End the Death Penalty, Oakland
Margaret Bick (Prison Reform Advocate)
Sharon Fennell (Prison Reform Advocate)
Claire Kiefer (Prison Reform Advocate)
Courtney Hooks (Prison Reform Advocate)
Sharon Martinas (Prison Reform Advocate)
Paul Freese (Prison Reform Advocate)
Kimberly Starr (Prison Reform Advocate)
Christine Thomas (Prison Reform Advocate)
Sarah Torres (Prison Reform Advocate)
Laurie Traktman, Esq. (Civil Rights Attorney)
Dan Stormer, Esq. (Civil Rights Attorney)
Cynthia Anderson-Barker, Esq. (Civil Rights Attorney)
Jorge Gonzalez, Esq. (Civil Rights Attorney)

Organizations of individual co-signers provided for identification