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USA

Mr Jeffrey A. Beard, PH.D.
Secretary
California Department of Corrections and Rehabilitation
1515 S Street
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5 December 2013

Dear Governor Edmund G. Brown Jr. and Secretary Jeffrey A. Beard, PH.D

PRISON CONDITIONS IN CALIFORNIA'S SECURITY HOUSING UNITS

We are writing to draw your attention to Amnesty International's continuing concerns and recommendations regarding conditions in California's Security House Units.

In November 2011 an Amnesty International delegation visited the Security Housing Units (SHUs) at Pelican Bay State Prison, the California State Prison at Corcoran and Valley State Prison for Women. We welcomed the openness of the California Department of Corrections and Rehabilitation (CDCR) in allowing us access to these facilities and the opportunity to speak with some prisoners and senior CDCR staff about the rationale for, and impact of, policies on segregated confinement. Amnesty International believes that prisons should be open to public scrutiny, especially in the case of facilities where prisoners are further isolated within an already closed environment.

Following its visit and review of additional sources, Amnesty International issued a report of its findings in September 2012: *USA: The Edge of Endurance, Prison Conditions in California's Security Housing Units*. While welcoming in principle CDCR's proposals to institute a step-down program (SDP) for prisoners serving indeterminate SHU terms for alleged gang membership or association, we expressed grave concern about the living conditions in the SHU units, which fell short of international standards for humane treatment. We were also concerned that prisoners admitted to the SDP would remain in isolation for the first two years of the four-year program.

Two years on from Amnesty International's visit, some 4,000 prisoners remain confined to the SHU, with no significant improvement to their conditions. They include hundreds of prisoners who have spent more than a decade – many longer than 20 years - in conditions of severe isolation and environmental deprivation at Pelican Bay SHU. The organization does not dispute that the authorities may need to segregate prisoners for security reasons at times. However, all measures must be consistent with minimum, internationally recognized standards for humane treatment without exception. The organization considers that prolonged isolation in the SHU units in general breach such standards, and that conditions in Pelican Bay SHU, in particular, constitute cruel, inhuman or degrading treatment or punishment in violation of the USA's obligations under international law.

Amnesty International is calling for immediate measures to address the following concerns, described in more detail in its report:

- *Conditions in Pelican Bay SHU cells.* Prisoners are held in concrete cells facing a wall, with no windows to the outside. The cell doors are constructed of heavy gauge perforated metal, which in

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the words of a federal judge “significantly blocks vision and light”¹ Amnesty International’s delegates stood inside a cell with the fluorescent light turned off and found that little natural light entered the cell even on a bright day. Lack of natural light in areas where prisoners live or work is in direct breach of the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (SMR) – standards which apply to all prisoners regardless of their custody status. As we have observed elsewhere, there is also concern about the possible health risks from prisoners having to eat all meals in their cells close to an open toilet and sink.

According to information provided at the October 2013 legislative hearing, more than 75% of the current Pelican Bay SHU population of 1,179 inmates are confined alone, with the remaining 264 prisoners held two to a cell. The 80 square foot cells just meet the standard set by the American Correctional Association (ACA) for single-celled maximum custody prisoners who spend more than 10 hours a day confined to a cell. Many prisoners in other California SHU units are double-celled in similar sized or slightly smaller cells. While having an appropriate cell-mate relieves some of the isolation, confining two prisoners together in a small space for 22-24 hours a day can cause additional stress and does not alleviate the overall effects of prolonged isolation and the other deprivations attached to SHU confinement.

- *Exercise:* In Pelican Bay SHU, prisoners are allowed up to an hour and a half of daily exercise, alone or with a cell-mate, in a high-walled concrete yard attached to each unit which precludes any outside view. Moving from a windowless cell to an enclosed yard with no view of the natural world for years on end provides an environment of severe sensory deprivation. Amnesty International was told that prisoners did not always get exercise every day as yard time was sometimes cancelled due to bad weather, staff shortages or for other reasons. The organization considers that the exercise facilities in Pelican Bay and other SHUs are seriously inadequate for prisoners confined to cells for prolonged periods.
- *Denial of phone calls/visiting conditions:* Contrary to practice in most other states and the federal system, SHU prisoners in California are not allowed phone calls with their families except in an emergency such a death or serious illness. The only concession provided by CDCR in its March 2012 reform proposals was that prisoners who have completed a year of the SDP would be allowed a single phone call, with a second phone call after two years. According to a CDCR fact sheet, “The SHU is not designed nor intended as punishment for misbehaviour”. However, California’s blanket denial of phone calls for prisoners serving indeterminate SHU terms is a punitive measure contrary to standards which require that prisoners should be able to retain reasonable contact with the outside world. The ACA standards provide that inmates in administrative segregation or protective custody be allowed telephone privileges, noting that the standard also applies to inmates held in disciplinary detention for more than 60 days (Standards for Adult Correctional Institutions 4th Edition, 4-4272). While ACA standards do not apply directly to non-accredited facilities, they provide a benchmark for good practice as has been recognized by CDCR.
- *Restrictions on personal possessions:* SHU prisoners have severe restrictions placed on personal possessions and in-cell activities. Although they may purchase TVs and radios, they are allowed fewer books, newspapers, writing materials and other items than general population inmates. The only hobby-craft items available are coloured pencils and drawing paper, a concession provided only after the 2011 hunger strike for prisoners who are not under a rule violation. The Inspector General reported to the recent legislative hearing that CDCR has in the past year begun to offer some academic programs, with instructors visiting cells to provide information on “self directed” study. 750 prisoners were reported to have enrolled in self directed educational programs from basic literacy to college study; while this is an improvement from the time of Amnesty International’s visit, this still benefits less than 20% of the SHU population. Apart from self-study, no work or rehabilitation programs are available to SHU inmates. Failure to provide meaningful programs to prisoners in long-term segregation is contrary to the USA’s obligation under the

¹ *Madrid v Gomez*, 889 F. Supp.1146 (N.D. Cal 1995)

International Covenant of Civil and Political Rights, which provides that rehabilitation should be an essential aim of any penitentiary system.

- *Indeterminate SHU terms:* Concerns continue to be raised about the fairness of the process for assigning individuals to indeterminate SHU terms. In 2011 CDCR proposed amending its regulations so that gang associates who are not active members are no longer automatically assigned to the SHU. However, prisoner advocates allege that the distinction between “active” membership and “association” can remain blurred and that the review process lacks adequate safeguards. It has also been pointed out that the criteria for potential SHU confinement has expanded to include members of street gangs, not just prison gangs. Prisoners have further expressed concern that progress through the SDP may still, in practice, depend upon their informing on fellow gang members and thus amount to “debriefing” in another name. Amnesty International urges that these concerns be addressed and that criteria for SHU placement be narrowly defined and subject to rigorous and fair review, and that a prisoner’s progress through the SDP is not conditional upon becoming an informant.
- *Physical and Mental Health Impact:* In California, prisoners assessed as suffering from serious mental illness are excluded from being held in Pelican Bay SHU following the 1995 ruling in *Madrid v Gomez*. However, they are not excluded from other segregated units. Amnesty International’s report raised concerns about the impact of isolated conditions on prisoners’ physical and mental health and about the adequacy of mental health monitoring and treatment, including in Pelican Bay. An ongoing lawsuit (*Ruiz v Brown*) has documented how prisoners who have spent years in Pelican Bay SHU, without being classified as seriously mentally ill, suffer from a range of disorders including severe anxiety, panic attacks, insomnia, hallucinations, concentration and memory loss. According to recent filings in a state-wide lawsuit (*Coleman v Brown*) more than a third of all suicides in CDCR facilities in 2011 took place in segregation units, which house a disproportionate number of prisoners who are mentally ill.
- *Women’s Confinement:* Fifty-eight women prisoners were in the SHU at the time of Amnesty International’s visit to Valley State Prison for Women; the unit has since been transferred to the California Institution for Women (CIW) where 74 women are reported to be in SHU confinement at the recent legislative hearing. During its visit the organization was told that most women were serving fixed SHU terms ranging from several months to a year or more for disciplinary offences, including acts such as spitting or throwing bodily waste which are indicative of mental health or behavioural problems. According to information provided by CDCR, as of July 2012, 50 prisoners in the women’s SHU and the adjacent Administrative Segregation Unit at CIW were in the Correctional Clinical Case Management System, meaning they were diagnosed as suffering from some form of mental illness. This is more than 50% of the combined population of both units. While receiving some mental health monitoring or treatment, women SHU prisoners remain in the same isolated conditions as the male SHU population, confined to single or double-occupancy cells for 22 and a half to 24 hours a day. Amnesty International’s report also raised concern about the predominance of male officers in the women’s SHU and lack of privacy for women washing or dressing in their cells.

A growing number of US states have taken steps to reduce their prison isolation units and improve conditions for those remaining in segregation, in recognition of the damaging effects and high cost of such confinement. As described in testimony to the recent legislative inquiry and elsewhere, far from reducing institutional safety, such measures have been found to have a positive impact on inmate behaviour as well as allowing resources to be diverted elsewhere.

As part of its blueprint for reform issued in early 2012, CDCR said that it would review the cases of all prisoners serving indeterminate SHU terms. At the October 2013 legislative hearing it was reported that 528 prisoners had been evaluated so far, of whom 343 were assessed as able to return to the general prison population, with others entering various stages of the SDP. Amnesty International welcomes the removal from the SHU of more than 300 prisoners, some of who had spent many years in isolation. However, we continue to be concerned by the slow pace of the review and the fact that hundreds of prisoners who have spent years or decades in isolation have yet to have their cases

evaluated. The organization is further concerned that, despite the reform process, it appears from figures provided to the legislative hearing that the SHU population has actually increased since 2011.²

Amnesty International calls on CDCR and the state government to restrict the use of isolation in California's prisons and ensure that conditions in segregation facilities meet international standards for humane treatment as well as best practice recommended by US standard setting bodies, penal experts and others. We urge that the following measures be implemented without delay:

- Limit the use of isolation in a SHU so that it is imposed only as a last resort for as short a period as possible in the case of prisoners whose behaviour constitutes a severe, ongoing threat to the safety of others or security of the institution.
- If prisoners continue to be held in Pelican Bay SHU, the conditions should be urgently modified to improve the living environment so that all prisoners even in the most restrictive custody have better facilities for outdoor exercise, access to natural light and more human contact.
- Contact with family members should be encouraged, by providing adequate opportunities for visitation and by allowing all SHU prisoners to make regular phone calls to their families.
- The step down program should be modified to provide prisoners with an opportunity to work their way out of the SHU to the general population in months rather than years.
- Introduce measures that allow some group interaction for prisoners at all stages of SHU confinement, both to benefit their mental health and wellbeing and to provide incentives and allow their behaviour to be measured.
- Expedite the review of indeterminate SHU assignments, with immediate removal from isolation of prisoners who have already spent years in the SHU. Prisoners should be transferred to the general prison population where possible or to a transitional unit depending on their individual circumstances.
- Mentally ill prisoners should not be held in isolation and should receive treatment in an appropriate setting.
- Opportunities should be provided for all prisoners in the SHU or other extended segregation to have access to educational and rehabilitation programs. All prisoners held in ASU cells for longer than a few days should have access to occupational materials and contact with the outside world through TV and/or radio to reduce the effects of extreme isolation and sensory deprivation.
- Female SHU prisoners should be attended and supervised by female staff and at no time should in any areas of the SHU be attended by male staff alone or in areas where women may be seen washing or dressing.

The state legislature should carry out regular monitoring and oversight of segregated housing facilities to ensure that all prisoners are held in conditions that conform to international standards and best practice.

Yours sincerely

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² The Inspector General reported to the October 2013 legislative hearing that approximately 4054 male prisoners were in the SHU including 327 in psychiatric service units; there were also 74 women in the SHU, making a SHU population of 4,129. Figures provided by CDCR for the SHU in November 2011 were 1,100 at Pelican Bay, 1,350 at Corcoran, 840 at Tehachapi, 58 in Valley State Prison and a smaller number of prisoners at California State Prison, Sacramento. The 2011 figures thus provide an approximate SHU population of just under 3,500 prisoners. Although it is unclear if this includes prisoners in the PSU, this would still be lower than the SHU population in October 2013.