



SPECIAL REVIEW

MANAGEMENT OF THE CALIFORNIA DEPARTMENT
OF CORRECTIONS AND REHABILITATION'S
ADMINISTRATIVE SEGREGATION UNIT POPULATION

OFFICE OF THE INSPECTOR GENERAL

DAVID R. SHAW
INSPECTOR GENERAL

STATE OF CALIFORNIA

JANUARY 2009



January 15, 2009

Matthew L. Cate, Secretary
California Department of Corrections and Rehabilitation
1515 S Street, Room 502 South
Sacramento, California 95814

Dear Mr. Cate:

Enclosed is the Office of the Inspector General's special review concerning the management of administrative segregation units (ASUs) in adult prisons. The purpose of this special review was to determine if prisons were complying with California Department of Corrections and Rehabilitation policies and due process requirements for inmates housed in ASUs.

The report identified repeated instances where inmates at California State Prison, Los Angeles County, California State Prison, Solano and San Quentin State Prison were held in ASUs for an inappropriate length of time. These extended ASU confinements violated CDCR policies and procedures, resulted in the denial of inmates' due process rights and potentially exposed the department to costly litigation. In addition, the consequence of these extended confinements was the expenditure of millions of dollars in unnecessary operating costs.

The report contains the results of our review of the management of ASUs and presents two findings and 12 recommendations. The two findings detail the violation of inmates' due process rights and the additional costs incurred as a result of the unnecessary retention of inmates in administrative segregation.

Thank you for the courtesy and cooperation extended to my staff during the special review. Please call Jerry Twomey, Assistant Inspector General, at (916) 830-3600 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "David R. Shaw".

David R. Shaw
Inspector General

Mr. Matthew L. Cate, Secretary
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cc: Scott Kernan, Undersecretary, Operations
Terri McDonald, Chief Deputy Secretary, Adult Operations (A)
Suzan Hubbard, Director, Division of Adult Institutions
Kim Holt, External Audits Manager

Enclosure

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Executive Summary

During a special review into the management of administrative segregation units in California's adult male prisons, the Office of the Inspector General identified repeated failures by some prisons to comply with California Department of Corrections and Rehabilitation policies and due process requirements for inmates. The inability of certain prisons to effectively manage administrative segregation units (ASUs) caused some inmates to be held in segregation units for an inappropriate length of time. We found that these extended ASU confinements violate California Department of Corrections and Rehabilitation (department) policies and procedures, resulting in the denial of inmates' due process rights while potentially exposing the department to costly litigation. Further, we estimated that these confinements result in millions of dollars in unnecessary operating costs.

California prisons temporarily segregate inmates who threaten institution safety and security. These inmates are placed in ASUs while prison staff members evaluate the threat they pose to prison security. Because inmates placed in ASUs lose more of their freedoms than inmates in the general population, they are entitled to mandated due process rights. For example, an inmate placed in the ASU is entitled to a written lock-up notice that tells him why he is being segregated in order to provide him the information necessary to dispute his ASU placement. The inmate also has the right to a hearing before a classification committee regarding his ASU placement, where he can call witnesses and/or obtain staff assistance, such as an English translator.



ASU cell

Staff members at the department's 33 adult prisons are required to comply with the complex rules that govern the ASU classification process to ensure inmates' due process rights. However, based on our evaluation of the ASU tracking logs from eight sample prisons, we identified four prisons—California State Prison, Los Angeles County; California State Prison, Sacramento; California State Prison, Solano; and San Quentin State Prison—with a pattern of questionable entries. As a result, we performed a detailed review of the ASU management practices at these four prisons.

We developed two findings based on our analysis of information related to ASU management:

- Certain prisons routinely violate policies and procedures intended to provide inmates with due process and timely release.
- The policy violations potentially cost the department \$10.9 million.

The first finding discusses how California State Prison, Los Angeles County; California State Prison, Solano; and San Quentin State Prison routinely violate policies and procedures intended to provide inmates with due process and timely release from the ASU. Specifically, the information we reviewed revealed the following:

- Prison staff members often fail to conduct inmate classification hearings in a timely manner. California law requires that ASU inmates have a hearing within 14 calendar days of the completion of any investigation or disciplinary report, but we found that the three prisons frequently failed to comply with the 14-day requirement.
- These prisons routinely violate department policies and procedures during the lock-up notice process, which causes unnecessary delays in releasing inmates from the ASU. For example, prison staff members do not always issue new lock-up notices that are required for notifying inmates about the reason for their ASU retention. In addition, inmates may be held in the ASU beyond their authorized release dates.
- The department has no formal policies or criteria establishing timelines for the prisons to complete gang validations and investigations regarding safety concerns. As a result, prison staff members often take a long time to complete gang validations and investigations. These delays may cause unnecessarily longer ASU stays for inmates.
- These prisons do not effectively use tracking logs to identify delayed ASU cases, and the staff does not closely monitor the logs to manage the ASU workload. At the three prisons, we found potential problems easily identifiable in the tracking log, including expired segregation terms and overdue classification hearings.
- These prisons do not consistently obtain approval from the classification staff representative (CSR) to keep inmates in the ASU. To comply with ASU regulations, prisons must seek approval from a CSR to retain an inmate in segregation for longer than 30 days; we also found that the prisons regularly failed to resolve problems cited by the CSR.
- Postponed hearings by the Board of Parole Hearings (BPH) can result in unnecessarily longer ASU confinements.
- Some of the prisons we surveyed failed to accurately maintain data on their prison transfer lists, thus preventing inmates from being transferred on time and causing some inmates to remain housed in the ASU for much longer than necessary.

The second finding of our report addresses the significant extra costs that the department incurs as a result of needlessly retaining inmates in the ASU. The average cost of housing a male inmate in the ASU is far greater than in a general population unit because of the extra officers and single-inmate cells needed to safely house ASU inmates. However, in

our discussions with department headquarters staff, they could not determine the statewide costs associated with operating ASUs. Therefore, we contacted various department program units and prisons, and we received information from which we estimated the annual ASU costs. Department headquarters provided costs for correctional staff while California State Prison, Sacramento; California State Prison, Solano; and Pelican Bay State Prison provided staffing information and the budgeted number of inmates for both general population and ASUs. Using this information, we estimated the average cost for housing an inmate in a general population housing unit and an ASU.

Although ASU costs can vary significantly from prison to prison because of their different programs and physical layouts, we estimated that the annual correctional staff cost of a standard ASU bed to be at least \$14,600 more than the equivalent general population bed. For the 8,878 ASU beds statewide, this additional cost equates to nearly \$130 million a year. While ASUs are an important part of prison population management, unnecessary ASU housing is a waste of taxpayer dollars.

While poor management and violations of policies and procedures result in unnecessary delays in releasing inmates from the ASUs, those delays also force the department to incur unnecessary operating costs, thus wasting taxpayer dollars. Further, the ASU management problems we found at the three of the four sample prisons are likely to be indicative of problems in prisons throughout California. By reducing these delays at prisons statewide, California could significantly curtail the more than \$10.9 million expended each year for ASU overflow beds and staff overtime. When the ASU population exceeds the available permanent space for ASU beds, the prison uses general population housing as overflow.

We made 12 recommendations to the department secretary and department staff and management as a result of this special review. These recommendations are listed on pages 23 and 24 of this report.

Introduction

This report presents the results of a special review into the management practices of administrative segregation units (ASUs) at select male adult prisons within the California Department of Corrections and Rehabilitation (the department). The issues addressed in this report were originally discovered during routine facility inspections conducted by deputy inspectors general from the Office of the Inspector General. Our inspectors found that certain prisons repeatedly failed to comply with department policies and due process requirements for inmates housed in ASUs. Some of the due process rights that were violated included the requirement to be adequately notified of the reasons for placement in the ASU; access to a timely, fair, and impartial hearing; and the right to a timely release. The failure to effectively manage ASUs potentially exposes the department to costly litigation. These improper, extended ASU stays also result in unnecessary additional operating costs totaling millions of dollars.

We conducted this review under California Penal Code section 6126, which assigns the Office of the Inspector General responsibility for oversight of the California Department of Corrections and Rehabilitation.

Background

Prison staff segregate inmates who threaten prison safety and security



ASU housing unit

The department houses inmates in various prison settings with different levels of security, dictated by the need to maintain order and safety. Most inmates live in general population facilities. Depending on the security level of each prison, general population inmates have some freedom to move within a facility in order to attend work assignments, participate in rehabilitation and education programs, and exercise with other inmates on the recreation yards.

When inmates engage in violent or dangerous behavior, staff members are obligated to remove them from the general population to protect the safety of the prison. Behavior such as rioting, assaults, and gang participation can cause an inmate to be sent to the ASU while staff members evaluate the nature and level of threat the inmate presents to the prison. Also, some inmates who become victimized by other inmates and need protection are placed in the ASU until the staff can find appropriate housing for them.

ASU inmates are subject to greater control than inmates housed in a general population setting. For safety reasons, ASU inmates are searched and handcuffed before they leave

their cells. When moving from one location to another, ASU inmates must be escorted by correctional officers. In addition, inmates in the ASU lose many privileges, and they have limited access to rehabilitative programs and activities. For example, an ASU inmate is only entitled to ten hours of recreation time outside his cell each week, compared to a general population inmate who can spend many hours outside his cell each day.

Inmates placed in ASUs are entitled to due process rights

Because ASU inmates lose more of their freedoms than inmates in the general population, prison officials must provide them with due process protections to ensure they receive a fair hearing to dispute their ASU placement. Therefore, the department has established comprehensive policies and procedures to protect inmates' due process rights and ensure the consistent and appropriate use of ASUs statewide.



Notice posted at ASU entrance

The first step in ensuring an inmate's due process rights is to advise him of the reasons he is being segregated. To accomplish this, the department uses a form called the Administrative Segregation Unit Placement Notice, also referred to as a lock-up notice. Further, inmates are entitled to the following procedural protections:

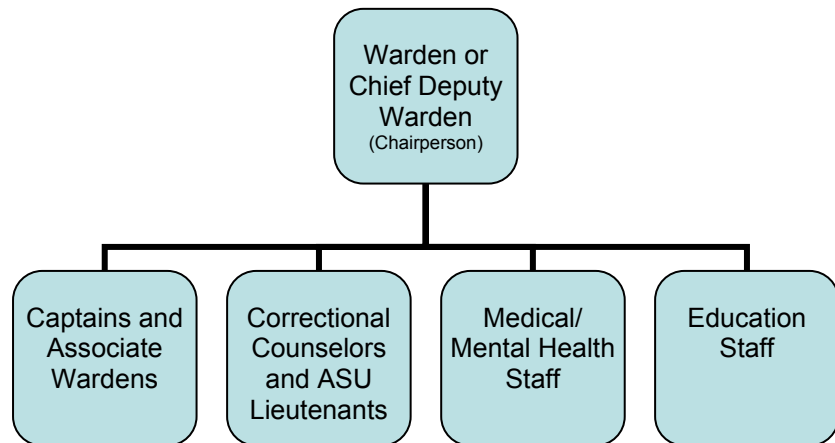
- Only a correctional lieutenant or higher-ranked officer may issue a lock-up notice.
- The lock-up notice must contain enough information to allow the inmate to dispute his placement in the ASU.
- A copy of the lock-up notice must be issued to the inmate within 48 hours of ASU placement.
- A captain must review the lock-up notice and interview the inmate the following working day to determine if the placement is reasonable pending further review.
- A captain has the authority to release the inmate back to the general population if ASU placement is no longer necessary.
- If the inmate must remain in the ASU, a captain must evaluate whether the inmate needs staff assistance, such as a translator for non-English speaking inmates.
- The inmate is afforded a hearing before the institution classification committee (ICC) within ten days of his placement in the ASU.
- The inmate may call witnesses and present evidence at the ICC hearing.

- Subsequent hearings must be held for changes in the reason the inmate is being held in the ASU.
- A hearing must be held within 14 days of the completion of the casework, such as the inmate disciplinary process or investigation, related to the inmate’s ASU placement.
- The inmate must be provided the documented results of the hearings.

Prison staff must comply with comprehensive processes and rules

The proper placement of ASU inmates is a complex process for a prison’s staff. The ASU institution classification committee (ICC) determines the appropriate housing of the inmate and ensures that his due process rights are met. Besides determining when to release an inmate from the ASU, the ICC has many issues to consider related to the inmate’s procedural rights and living conditions while in the ASU. Some of the issues include evaluating medical and mental health concerns, enemy situations, and cell and yard compatibility. The ICC is composed of staff members representing the following areas:

ASU Institution Classification Committee (ICC)



Correctional counselors are tasked with completing the casework for inmates in the ASU. This casework includes determining changes in the inmate’s placement score,¹ custody level, and credit-earning status.² Correctional counselors must maintain constant communication with facility staff members responsible for the disciplinary process,

¹ Correctional counselors review each inmate’s history and case factors, including both positive and negative behavior, and calculate a score that determines the custody level in which to house an inmate. Higher placement scores result in placement into prisons that are more secure.

² Credit-earning refers to the additional time credited to inmates for participating in work or education programs, thus reducing the amount of time they serve in prison.

investigators from various prison units, prison district attorney liaisons, medical and mental health professionals, headquarters personnel, and other staff members.

Correctional counselors rely heavily on inmates' central files to keep a chronological history of each case. The central file also acts as a communication tool among the various staff members who serve a role in monitoring and processing an inmate's stay in the ASU. Central files hold a multitude of reports and forms that staff members use to classify and make housing placement decisions for inmates. Before the ICC hearings, the assigned counselor prepares the file for review by the committee chairperson during the hearing. After the hearing, correctional counselors document each committee action in a form called the classification chrono, which is maintained in the central file.

The department's Classification Services Unit provides another layer of review for administrative segregation cases. The Classification Services Unit employs classification staff representatives (CSRs), who travel from prison to prison reviewing classification actions. Specialized CSRs act as the department's gatekeepers to ensure due process rights are provided to inmates placed in segregated housing, including ASUs and security housing units (SHUs).³

Objectives, Scope, and Methodology

The purpose of this special review is to determine whether California's state prisons are violating the due process rights of inmates in ASUs. This review also seeks to determine whether prisons are wasting state funds by housing inmates in administrative segregation for longer periods than necessary.

We reviewed management and tracking information for eight prisons to determine if there were indicators of potential problems in the administration of ASUs. Some factors considered to be indicative of potential problems in ASU management included overdue classification hearing dates, expired minimum eligible release dates, classification hearing recommendations not being forwarded to the CSR for review, and other gaps in the tracking records. The eight sample prisons were:

- California State Prison, Los Angeles County
- California State Prison, Sacramento
- California State Prison, Solano
- Deuel Vocational Institution
- Folsom State Prison

³ SHUs are designed as long-term housing for inmates whose behavior demonstrates they are a threat to the safety and security of general population facilities. Movement and privileges of SHU inmates mirror that of ASU inmates. There are two types of SHU placements: indeterminate terms, which have no expiration date and require staff review every 180 days, and determinate terms, which are directly associated with a specific disciplinary offense and are for a specific length of time.

- Kern Valley State Prison
- Mule Creek State Prison
- San Quentin State Prison

Based on our initial evaluation, we identified no significant issues in the management of ASUs for four of the prisons. However, for the other four prisons—California State Prison, Los Angeles County; California State Prison, Sacramento; California State Prison, Solano; and San Quentin State Prison—we identified a pattern of questionable entries in the management and tracking data. As a result, we performed an expanded review of ASU management for these prisons. During our review, we determined that questions regarding the management of the ASU at California State Prison, Sacramento, related to inmates who were temporarily removed from the prison, and those instances were being managed appropriately.

Our expanded review focused on the cases of inmates who had been in the ASU more than 200 days because such long stays in the ASU may be indicative of violations of due process rights. In the process of performing this review, we:

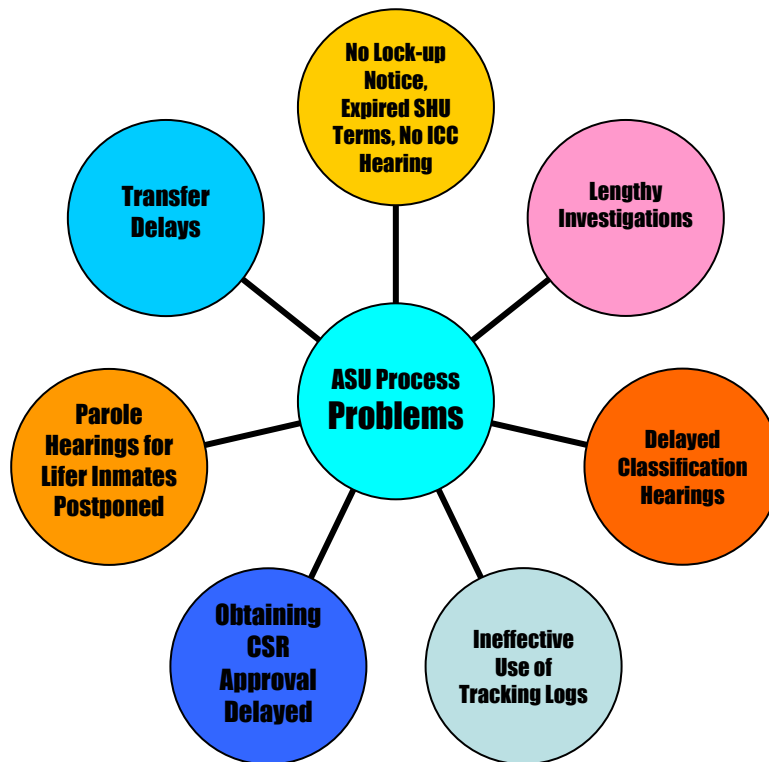
- Identified 1,508 inmates housed in the ASUs at California State Prison, Los Angeles County (CSP Los Angeles County); California State Prison, Sacramento (CSP Sacramento); California State Prison, Solano (CSP Solano); and San Quentin State Prison (San Quentin).
- Determined that 331, or 22 percent, of the 1,508 inmates were housed in ASUs for more than 200 days.
- Reviewed 85, or 26 percent, of the 331 inmate central files and other relevant documents to determine whether inmates had been placed appropriately in the ASU and to determine whether the inmates' cases had been processed within established time frames.
- Interviewed a CSR to document the classification process and the Classification Services Unit's oversight responsibilities for the administration of ASUs and inmate due process rights.
- Interviewed the department's Program Support Unit and budget staff regarding staffing ratios for ASUs and statewide ASU costs.

Based on our analysis of the information we obtained through this process, we developed two findings and 12 recommendations regarding the management of ASUs.

Finding 1

CSP Los Angeles County, CSP Solano, and San Quentin State Prison routinely violate the rights of inmates to due process and timely release from administrative segregation.

The process for assigning and retaining inmates in the administrative segregation unit (ASU) is complex and cumbersome. As a result, the opportunities for mistakes to occur are numerous. While our review found many errors, the following chart shows the most common problems related to the ASU process.



These violations are caused by lapses in scheduling, tracking, and completing casework on time, as well as lapses in holding prompt classification hearings. In addition, we found certain prisons fail to obtain mandatory headquarters approval for retaining inmates in the ASU for longer than 30 days. Breakdowns in the ASU classification process often prevent inmates from returning to the general population in a timely manner.

Some prisons routinely violate department policies and procedures and make errors that cause unnecessary delays in releasing inmates from the ASU, particularly at the end of an inmate's SHU term

Staff members must provide due process for inmates placed in segregated housing. The initial procedural requirement is for the inmate to be provided with a lock-up notice explaining the reasons for the ASU placement. In addition, when the reason or circumstances for an inmate's placement in the ASU change, staff members are required to issue the inmate a new lock-up notice to afford the inmate additional procedural protections. One example of a changing circumstance is when a security housing unit (SHU) term expires⁴ and the inmate cannot be released to the general population because he remains a threat to the victims of his offense. In this circumstance, the inmate would receive a new lock-up notice explaining his retention in the ASU, and he would be provided with an opportunity to appeal the action.

In 30 of the 85 inmate cases reviewed (35 percent), we found violations of inmates' procedural rights in relation to the lock-up notice process. Violations included:

- Failure to provide an adequate lock-up notice;
- Failure to meet time frames for hearings;
- Failure to provide staff assistance when needed;
- Failure to issue a new lock-up notice when an inmate's reason for being held in the ASU changed.

The following is an example of a San Quentin inmate who was not provided his procedural rights, including not receiving the required lock-up notice when his reason for ASU placement changed:

On March 29, 2007, an inmate with an extensive history of mental health problems arrived at San Quentin and claimed he feared for his safety in the prison. Based on the safety concern, the inmate was issued a lock-up notice and placed in the ASU. Within a few days, the ICC decided to keep him in the ASU pending receipt of the inmate's archived central file. The ICC also referred the case to the CSR for approval to keep the inmate in the ASU for 90 days to evaluate his safety concerns. On May 8, 2007, the CSR instructed the prison to return the case in 15 days, noting that the file was already available so there was no reason to delay evaluating the safety issue. However, the investigation into the inmate's safety concerns was not completed until early July 2007, and the prison failed to return the case to the CSR for review and approval as required. As a result, the inmate continued to be held in the ASU without required CSR approval.

⁴ Many SHU terms expire before a transfer to a SHU facility can occur, resulting in the entire SHU term being served in the ASU.

While in the ASU, the inmate assaulted two correctional officers. Because of his assaults on the officers, the reason for his ASU placement changed. At this point, staff members should have provided the inmate with a new lock-up notice, consistent with department policy, and reclassified him. However, a new lock-up notice was not issued.

Ultimately, the ICC did not see the inmate until December 6, 2007, seven months after his first hearing and over six months after staff members were instructed to return the case to the CSR for review. At this hearing, the ICC imposed two SHU terms, with an expiration date of September 8, 2008. Even at this hearing, the ICC failed to recognize that a new lock-up notice was required because the reason for the inmate's ASU placement had changed.

While in the ASU, the inmate's mental state deteriorated, and the inmate was temporarily transferred to another prison to address his mental health needs. However, on May 27, 2008, the inmate was returned to San Quentin. Upon his return, the inmate was placed back into the ASU and issued a new lock-up notice stating that because he was in the ASU before

the transfer, he was being placed there again.

Despite multiple changes in the inmate's status during the intervening period, this was the first lock-up notice the inmate received since March 29, 2007. Further, while the staff finally issued a lock-up notice, the prison violated policies and procedures by not providing enough information for the inmate to appeal his ASU placement.



ASU exercise unit

While there were numerous errors and procedural violations in the handling of this inmate's ASU placement, at a minimum, the ICC should have reviewed the inmate's case immediately after instructed by the CSR on May 8, 2007, and returned the case within 15 days as required. Further, the ICC should have reviewed the case at 30-day to 90-day intervals.

More than one year after arriving in the ASU, San Quentin staff continued to violate this inmate's rights by not complying with policies and procedures, as follows:

- The staff had yet to issue the inmate a new lock-up notice with sufficient detail to inform him that his pattern of misbehavior resulted in SHU terms and was causing him to be held in the ASU.
- The staff had not provided him with the required lock-up notice protections, such as assigning a staff assistant and holding a lock-up notice hearing based on the changed reason for being held in the ASU, which also precluded the inmate from appealing these issues.

- The staff had not provided the inmate's central file to a CSR for review and approval of the ICC's actions, including issuing him two SHU terms for assaulting staff members.

On August 31, 2008, the inmate was transferred to the California Medical Facility to address his mental health needs. His unapproved SHU term expired in September 2008.

In addition, prison staff need to determine the appropriate housing before an inmate's SHU term ends. Prison staff are required to conduct a classification hearing at least 30 days prior to the expiration of the SHU term. A new lock-up notice is required if the inmate is to be retained in the ASU pending a transfer to another prison. However, our review found that prison staff members did not always issue new lock-up notices and reclassify inmates before the end of their SHU terms. These inmates could not be released to the general population for other reasons, and they were held in the ASU an average of three months beyond their SHU term without an appropriate notice and hearing. At CSP Los Angeles County, in more than one-half of the cases we reviewed, inmates were held an average of nearly four additional months beyond the expiration of their SHU terms without the required notice and hearing.

In another example, staff errors resulted in an inmate being retained in the ASU after his SHU term expired:

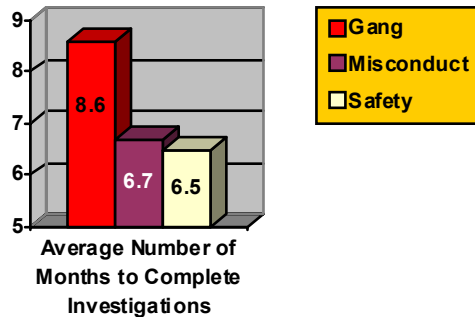
On January 24, 2007, an inmate was placed in San Quentin's ASU. While in the ASU, the inmate received multiple disciplinary reports; however, while assessing SHU terms and classifying the inmate, staff members made multiple errors in their calculations. On May 7, 2008, while attempting to correct the errors, the ICC determined that the inmate's SHU term had expired on January 20, 2008, almost four months earlier. Despite this fact, the inmate continues to occupy an ASU bed while the staff attempts to sort out the multitude of problems in his central file. As of June 18, 2008, San Quentin still housed the inmate in the ASU, even though his SHU term expired on January 20, 2008. No new lock-up notice was issued to explain why the inmate was still housed in the ASU even though his SHU term expired. Because no notice was issued, the inmate has not been given an opportunity to appeal his retention in the ASU.

The department does not have specific policy requirements regarding time frames to complete investigations and gang validations, and as a result, staff frequently take an inappropriate length of time to complete casework

An inmate's stay in an ASU is temporary while staff members gather information to determine the inmate's next classification placement. The most common areas to resolve before an inmate's appropriate classification and placement are investigations and inmate disciplinary processes.

In 17 of 85 inmate files we reviewed, or 20 percent, staff members took an average of almost eight months to complete the investigations, as noted in the graph below. Of those investigations, 65 percent were to determine an inmate’s prison gang involvement, 17.5 percent concerned the circumstances of the inmate’s safety concerns, and 17.5 percent involved serious misconduct allegations.

The graph below shows the average number of months to complete each type of investigation in the cases we reviewed.



Inmates are commonly removed from the general population to prevent them from interfering with investigations. Staff members conduct investigations regarding serious misconduct, such as assaults, drug trafficking, and attempted escapes. Staff members also investigate when an inmate claims his safety is in jeopardy, or when an inmate is suspected to belong to a prison gang, such as the Mexican Mafia or Aryan Brotherhood. The prison’s investigative officers and gang coordinators usually investigate serious misconduct or gang activity. However, classification or facility staff members also investigate some issues, such as misconduct and inmate safety concerns. When an inmate is held in the ASU pending an investigation, prison managers are responsible for tracking the investigation’s timely completion.

For gang validations, the gang investigator prepares the documents and submits the evidence of prison gang involvement to the department’s Office of Correctional Safety for approval. In eleven central files that we reviewed, the average time to complete gang validations was over eight and a half months. However, we also found that six of the eleven gang validation cases took over ten months to complete after the inmate was placed in the ASU, with no explanation in the central files regarding why those investigations took so long.

The California Department of Corrections and Rehabilitation has no formal procedures governing time frames for completing gang validations. The Office of Correctional Safety’s internal goal is to conduct its review within 60 to 90 days. However, documents returned by the Office of Correctional Safety to the prisons for revisions can cause significant delays in completing the validation process.

Since the department has no criteria for the timely completion of investigations regarding safety concerns and gang validations, such investigations can take many months to

complete. In turn, these lengthy investigations increase the time inmates are held in the ASU. The following example illustrates an extended ASU confinement stemming from a delayed investigation:

A San Quentin inmate was placed in the ASU on July 20, 2007, for safety concerns. The investigation into his safety concerns did not begin until February 11, 2008, nearly seven months after he was first placed in the ASU. Once initiated, the investigation was completed in only two days. There was no explanation for the delay in initiating this investigation.

On February 27, 2008, the ICC said that the inmate's transfer was delayed until completion of reception center processing, a process normally completed within 60 days after an inmate arrives at a reception center. This inmate had arrived at the reception center on July 20, 2007; therefore, the reception center processing should have been completed by the end of September 2007.

On May 22, 2008, a new lock-up notice was finally issued advising the inmate he was in the ASU for safety concerns, yet there was no information in the inmate's central file indicating that he had new safety concerns.

It appears that staff members were unaware that the investigation into the inmate's safety concerns was already completed. On May 28, 2008, the ICC elected to retain this inmate in the ASU pending an investigation into his safety concerns. We contacted a counselor and a gang investigator who both said they were unaware of any new investigation for this inmate. Yet, as of June 18, 2008, the inmate was still housed in the ASU. Had staff members diligently processed this case, the ICC could have reasonably referred the inmate for transfer around October 2007.



ASU unit at CSP Sacramento

Prison staff fail to conduct inmate classification hearings in a timely manner

Since ASU housing is intended to be temporary, the responsibility of the ICC is to ensure staff work is completed on time in order to determine an inmate's next placement. California Code of Regulations, Title 15, section 3335 requires that each ASU inmate have an ICC hearing within 14 calendar days after the completion of the casework, such as an investigation or disciplinary report, related to an inmate's placement in the ASU.

Significant delays in completing casework can occur when managers fail to monitor the status of staff work. We found that in 32 of the 85 inmate files we reviewed, or 32 percent, the staff failed to comply with the 14-calendar-day requirement. The average delay in processing these cases was 56 days beyond the 14-day requirement. CSP Solano had 18 cases where the 14-day rule was violated, which averaged 49 days beyond the 14-day requirement. In contrast, CSP Sacramento had no 14-day violations. In the following example, the ICC did not review the inmate's disciplinary report within 14 days of completion:

An inmate was initially placed in the ASU on February 22, 2007, at Calipatria State Prison for battery on an inmate. He was transferred to the ASU at CSP Los Angeles County on September 20, 2007. As a result of the mishandling of his initial rules violation report hearing, his disciplinary report was not completed until October 17, 2007. He did not appear before the ICC until March 27, 2008, which was 148 days more than the 14 days allowed.

Three of eight prisons sampled do not effectively use tracking logs to identify delinquent ASU cases

Tracking logs are usually designed as a tool to assist staff and managers in scheduling cases, ensuring due dates are met, and serving as a reminder for work needing to be done. During our review, we obtained the ASU tracking logs for the eight sample prisons. Three of these prisons used a common tracking program, while the other five prisons used variations of spreadsheets created by the prison staff. As a whole, we found that most of the logs would be adequate to manage the respective ASU caseloads; however, CSP Los Angeles County, CSP Solano, and San Quentin State Prison did not seem to closely monitor the logs to manage the work. Had staff members closely monitored the ASU tracking log, the problems cited in the following case may not have occurred:

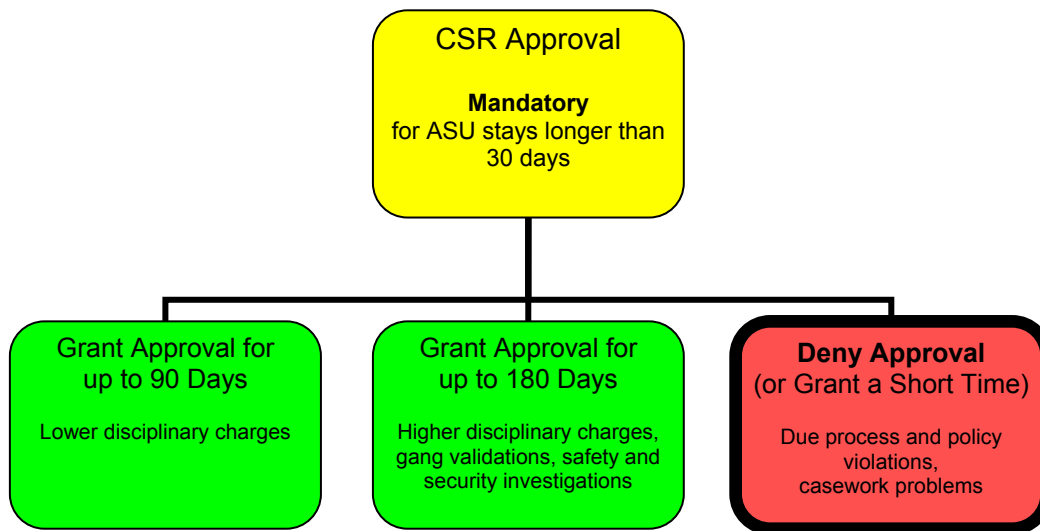
A CSP Los Angeles County inmate's file indicated that he was initially placed in the ASU on July 3, 2006, for battery on a peace officer. While in the ASU, this inmate committed additional rules violations. On November 28, 2007, the inmate's SHU term for the battery and other violations expired, but he was retained in the ASU for safety concerns. On December 26, 2007, the CSR approved a recommendation that the inmate be transferred to another prison with an expiration date of April 24, 2008. As of June 18, 2008, the inmate was still retained in the CSP Los Angeles County ASU and had not been brought back to the ICC to review his case status.

The inmate's information in the June 9, 2008, ASU tracking log was consistent with the inmate's file. The log clearly shows that the inmate's SHU term had expired on November 28, 2007, and in addition, his transfer endorsement expired on April 24, 2008. A review of the ASU tracking log would have alerted staff that the inmate should have been referred to the ICC before April 24, 2008. As a result, the inmate was confined to the ASU for two additional months because he could not be transferred with an expired transfer endorsement.

The warden at one prison has been holding weekly status meetings regarding ASU cases for the previous six months to reduce the errors that had been occurring. However, we still found numerous potential errors during our review of the ASU tracking log for this prison. Our review of the tracking log showed 51 potential problems with ASU cases, including expired SHU terms, expired CSR approvals, and overdue classification hearings. These red flags indicate that, despite participating in the warden’s weekly ASU meeting, managers are not using the tracking log to effectively identify and address potential problems.

Certain prisons do not consistently obtain CSR approval for retaining inmates in the ASU

To maintain consistent compliance with regulations regarding the use of the ASU, the Classification Services Unit has oversight of the inmates housed in segregation. When the ICC determines that an inmate must stay in the ASU for more than 30 days, staff members are required to submit the inmate’s central file with an explanation of the need to exceed 30 days to a CSR for approval. The chart below outlines the CSR approval guidelines.



A common procedural error occurs when staff members fail to adequately inform the inmate of the specific reasons for his stay in segregation. In such cases, either the CSR may deny the ASU placement, or the CSR may require that staff members provide the inmate with additional due process protections, such as issuing a new lock-up notice, which requires a new ICC hearing.

Moreover, we found that the prisons regularly failed to take action to resolve the discrepancies cited by a CSR until the inmate’s next normally scheduled ICC hearing, usually months later. Seventy-two percent of the cases we reviewed had significant lapses in responding to CSR concerns by the date requested, averaging nearly a three-month delay per case. On one extreme, CSP Los Angeles County failed to meet the time frames for resolving issues in 18 of the 20 cases we reviewed (90 percent). CSP Solano and San

Quentin were not significantly better—they failed to meet time frames in 32 out of 46 cases (70 percent) and 11 out of 13 cases (85 percent), respectively. In contrast, we found 100 percent compliance with cases from CSP Sacramento.

The department's general time frame for staff members to submit a case to the CSR after an ICC hearing is 30 days (which is extended up to 60 days for certain exceptions). In almost one-third of the cases we reviewed, the classification staff failed to forward their recommendation to the CSR within 60 days of the ICC hearing. In those cases, it took almost 120 days to obtain CSR approval. At San Quentin, over three-quarters of the cases were not submitted to the CSR for approval within 60 days of the classification hearing. The following is an example of a prison not obtaining the CSR's approval to retain an inmate in the ASU:

On October 25, 2007, a CSP Los Angeles County inmate was placed in the ASU for battery on a peace officer. On November 26, 2007, the CSR stated that the file was missing information and requested that the prison review the case and return it to the CSR by December 11, 2007. The prison took no further action until March 6, 2008, when the ICC assessed a SHU term for the disciplinary action. However, the file was not presented to a CSR after it went to the committee. As of June 19, 2008, seven months since the last CSR review, the inmate's case had still not been forwarded to the CSR for review and approval to retain the inmate in the ASU.

In an apparent acknowledgment that staff members are struggling to comply with the 60-day requirement, on May 5, 2008, the department issued a memorandum revising the time frames for submitting transfer referrals to a CSR. The memorandum emphasizes the expectation of submitting cases to a CSR within 30 days. However, the memorandum also serves to extend the time frames for updating a case by an additional month, from 60 days to 90 days.

In cases requiring a CSR approval to transfer an inmate, delays in processing reports and getting a case presented to the CSR ultimately result in delays in transferring the inmate to his next prison. Delays in facilitating transfers may result in the unnecessary use of ASU bed space and additional restrictions of the inmate's liberty.

CSRs only review the central files that are presented to them by the prisons' classification staff members. Once a CSR requests action on a problematic case, there is no external method to track whether the prison is addressing that CSR request in a timely manner. Under the current system, the responsibility for ensuring compliance with CSR requests relies totally on the prison. The CSRs are not required to follow up on past referrals to ensure staff compliance. When classification staff members do not effectively track the status of their cases, there is no safety net to ensure an inmate's stay is not delayed for months because of the errors. The following is an example of one prison's failure to track an inmate's case status:

An inmate was initially placed in CSP Los Angeles County's ASU on November 14, 2007, for safety concerns. On December 11, 2007, the CSR approved his retention in the ASU pending an investigation into the inmate's safety concerns. Included was a directive to return the case with an update to the CSR by January 20, 2008. The investigation was completed on March 7, 2008, which concluded the inmate could not be released to the general population housing unit. As of June 19, 2008, the case has still not been returned to the CSR, and there is no explanation of why the CSR's directive was ignored and why the inmate has not been endorsed for transfer.

Postponed parole hearings result in extended ASU confinement

In our review, we also discovered a lack of coordination between correctional counselors and the department's Board of Parole Hearings (BPH). Prison staff members are precluded from transferring inmates who are within 90 days of their BPH lifer hearing dates. When staff members are alerted to an upcoming BPH hearing for an ASU inmate, they retain the inmate in the ASU pending completion of the hearing. But in some cases we found that the BPH postponed the hearings and rescheduled them several months later. When this occurred, only a brief window became available to transfer the inmates. However, there is no process in place to alert classification staff of postponed BPH



Correctional officers escorting an ASU inmate

hearings. As a result, frequently when the committee conducts the next review, the inmate is once again within 90 days of his BPH hearing and the window to transfer the inmate has closed.

The frequency of the BPH hearings affecting an inmate's stay in the ASU was small, just eight percent, or seven of the cases we reviewed. However, the impact for those eight percent was significant. The average additional stay in the ASU related to BPH hearing issues was about six months. Of the

seven inmates we reviewed whose ASU stay had been affected by BPH actions, five had their BPH hearings postponed one or more times. The following is an example of how a postponed BPH hearing affected an inmate's ASU stay:

An inmate was initially placed in CSP Solano's ASU on April 21, 2007, for attempted over-familiarity with a staff member. The inmate was later found guilty of over-familiarity, a charge that does not warrant a SHU term. The staff member who the inmate targeted voiced concerns regarding her safety if the inmate were released, so the ICC retained him in the ASU pending transfer to another prison. However, the inmate could not be transferred because he was within 90 days of his BPH hearing, which was scheduled for October 2007, six months after his initial ASU placement. Because the BPH could not provide a panel for that

week's hearings, the inmate's BPH hearing was rescheduled for March 2008. When classification staff discovered his BPH hearing was postponed, the rescheduled hearing was already within the 90 days and the inmate again could not be transferred to another prison. The BPH held a hearing in March 2008, and the inmate was denied parole. On July 23, 2008, 15 months after being placed in the ASU for a rules violation that does not require segregation in a SHU or ASU, the inmate finally received a transfer to another prison.

Certain prisons failed to accurately maintain data on their transfer lists

We noted that in 23 of the 85 inmate files reviewed (27 percent), inmates were retained in the ASU for a period averaging nearly six and a half months while pending transfer to another prison. When the ICC determines an inmate needs to transfer to another prison, it makes a recommendation to a CSR for approval. If the case complies with department requirements, the CSR "endorses" the inmate for transfer. The prison's case records staff are tasked with maintaining a list of inmates to be transferred.

Each week the case records staff uses the transfer list to request bus seats from the department's Transportation Unit. Because of overcrowding and limited program availability, there are only a few bus seats given each week to each prison. The case records staff schedules inmates for transfer based on the number of bus seats they receive. The case records staff then prioritizes bus seats based on factors such as medical transfers and ASU placement. In addition, inmates are also scheduled based on the length of time they have been endorsed for transfer, with oldest endorsements transferring first. However, most transfer endorsements expire after 120 days, and before an endorsement expires, the classification staff is required to resubmit the case to the CSR for a new endorsement.

Nevertheless, we found ten cases at three prisons where inmates were endorsed for transfer two to four times over the course of several months (in one case, 17 months) without receiving a transfer.

For example, we obtained a copy of CSP Solano's transfer list and compared the list data with endorsement information in the central files. We found that staff members were incorrectly tracking information on the transfer list. Specifically, in the section identifying the inmate's length of time that he was endorsed, instead of showing his original endorsement date, staff members entered the date of the most recent endorsement. The result is that the inmate's name was moved to the bottom of the transfer list each time the inmate received a new endorsement. While we were unable to track each inmate's endorsement history on the transfer list, staff members responsible for the list said they were unaware they were making these incorrect entries. According to these staff members, this situation was more than likely compounded when the classification staff allowed an endorsement date to expire before resubmitting the case to a CSR. In those instances, the inmates' names were completely removed from the transfer list until they were re-endorsed. The following is an example of a transfer list problem affecting an inmate's ASU stay:

A CSP Solano inmate was listed on the May 29, 2008, automated transfer report with an original endorsement date of April 22, 2008. However, we reviewed the inmate's file and noted that he had three endorsements without being transferred. The inmate's first endorsement was July 3, 2007, more than nine months earlier than the endorsement date currently noted on the transfer report.

Therefore, staff failure to accurately maintain the information on the transfer list causes some inmates to remain housed in the ASU for much longer than would normally occur. Some of these inmates had not committed any misconduct, but rather they had been victims of assaults and were awaiting transfer to sensitive needs yards (SNYs).⁵

⁵ Inmates who cannot be housed safely in general population facilities because of safety concerns are placed in SNY facilities. SNYs are similar to general population yards in terms of cost to operate, freedom of movement, and access to programming.

Finding 2

The California Department of Corrections and Rehabilitation incurs additional costs as a result of the unnecessary retention of inmates in administrative segregation.

The average cost of housing a male inmate in the ASU is much greater than in a general population unit for two reasons. First, the ratio of staff to inmates is greater in the ASU than in a comparable general population housing unit. The additional staff members are necessary because most inmates who are housed in ASUs are there for violent or dangerous behavior. Anytime an ASU inmate is moved from his cell (such as to the showers, ICC hearings, visiting, or the law library), per department policies and procedures, he needs to be handcuffed and escorted by correctional officers. The second reason is that since ASU inmates are often dangerous to others, many are housed in single cells as opposed to dormitories and double-bunked cells in general population housing; therefore, there are generally fewer inmates housed in an ASU than in a comparable general population housing unit. As a result, an ASU has more staff members overseeing the needs of fewer inmates.



ASU exercise units

Documentation provided by the department revealed that the male ASU population has increased from an average of 8,791 in the 2006–07 fiscal year to an average of 8,878 in the 2007–08 fiscal year. This increase contrasts with the male inmate population as a whole, which has trended slightly downward in recent years.

Included in the ASU population increase was an additional 48 ASU overflow beds statewide, from 704 beds in 2006–07 to 752 beds in 2007–08.

When more ASU beds are required at a particular prison, an ASU overflow housing unit is created by converting portions of a general population

housing unit. The costs of these overflow beds are comparable to those of regular ASU beds; however, instead of budgeted positions, this additional overflow cost is paid through staff overtime. For example, CSP Solano reported that the additional cost attributed to the ASU overflow in 2007–08 was \$431,000 for correctional staff overtime.

In our discussions with department headquarters staff, they could not determine the statewide costs associated with operating ASUs or ASU overflow units. Therefore, we contacted various program units and prisons within the department, and we received information from which we estimated the annual ASU costs.

- Custody costs for correctional officers, sergeants, and lieutenants were provided by department headquarters.

- Staffing information and the budgeted inmate capacity for general population and ASU housing units was provided by three prisons: CSP Sacramento, CSP Solano, and Pelican Bay State Prison.
- We calculated the correctional cost per inmate by multiplying the number of staff members assigned to a general population housing unit and ASU and dividing that number by the budgeted inmate capacity.

For example, at CSP Sacramento, the annual correctional cost for housing a general population inmate is \$11,512 while the equivalent ASU cost is \$28,137, or a difference of \$16,625. At CSP Solano, the difference is \$15,692 and at Pelican Bay State Prison the difference is \$11,501. The costs vary significantly from prison to prison because of the different physical designs and the various missions and programs provided to inmates. If we were to average the three prisons, we estimate that the annual correctional staff cost of a standard ASU bed to be approximately \$14,600 more than the equivalent general population bed. For the 8,878 ASU beds statewide, this additional cost equates to nearly \$130 million a year.

While previously noted, unnecessary delays in releasing inmates from ASUs resulted in violations of inmates' due process rights; those delays also resulted in the department incurring unnecessary additional costs. We estimate the ASU overflow costs are more than \$10.9 million of the nearly \$130 million expended on ASU beds statewide. We recognize there are situations beyond the department's control, such as riots, that require short-term use of ASU overflow beds. However, by reducing delays, the department could achieve a considerable savings by reducing ASU overflow beds and the associated overtime costs. Were the department and its prisons able to reduce the need for ASU overflow beds, the department could significantly reduce the \$10.9 million expended each year. In addition, the reduction of overflow beds would reduce overcrowding because ASUs typically have more single cells than general population housing units.

Recommendations

The Office of the Inspector General makes the following recommendations:

- The secretary of the California Department of Corrections and Rehabilitation should ensure that the department develops defined expectations for completing investigations, including specific timelines for each type of investigation. The department should prioritize investigations, identify required resources, and establish due dates in order to complete investigations on time.
- Department managers and supervisors should closely monitor tracking logs for inmate disciplinary reports and account for the status of every incomplete inmate disciplinary report. The results of completed inmate disciplinary reports should be forwarded to the classification staff in a timely manner.
- The secretary should ensure that the department standardizes its tracking log program for managing ASU cases. The program should include a “responsible party” section with due dates to help managers identify the progress of work associated with ASU cases. The program should also contain detailed dates regarding transfer endorsements, BPH hearings, and CSR approval.
- Department classification staff and managers should conduct analytical reviews of tracking logs to ensure that investigations and other actions are completed and that hearings are held in a timely manner, and that cases are monitored on an ongoing basis. ICCs should carefully review inmates’ case factors and determine whether continued segregation is necessary.
- The secretary should rescind the May 5, 2008, memorandum that increased the time frames for submitting transfer referrals to a CSR to 90 days.
- The secretary should ensure that the department provides ongoing training on assigning and retaining inmates in the ASU to the correctional counselors and managers who are responsible for processing ASU placements.
- Correctional counselors should ensure that all inmates serving determinate SHU terms are scheduled for a classification hearing within at least 30 days prior to the expiration of the SHU term. In cases when the inmate remains a threat to safety and security, staff members should comply with regulations by issuing a new lock-up notice to the inmate and provide due process protections for his changed reasons for segregation.
- The Classification Services Unit should implement a system for CSRs to follow up on problematic ASU cases. Each CSR visiting the prison could review past issues and inquire when staff members have not rectified the problems.

- The secretary should ensure that the department develops a system and criteria for coordinating BPH hearings for inmates housed in the ASU to prevent delays caused by postponed BPH hearings.
- The secretary should ensure that the department creates standard desk procedures for staff members responsible for maintaining the prison transfer lists and ensure compliance with the procedures. The ICC chairpersons should become proactive in seeking resolution for inmates spending unusually long periods in the ASU waiting to transfer to another prison.
- The secretary should ensure that the department develops effective comparative statistics (COMPSTAT) methods for tracking the prisons' use of ASU bed space. Currently, these COMPSTAT reports require that prisons report the average length of stay for inmates in the ASU and analysis of the budgeted beds, including overflow. A more effective method is to capture the number of stays over 200 days, 400 days, or 800 days, including data justifying the specific reasons for extended ASU retention. In addition, COMPSTAT data could include information identifying time frames affecting the availability of ASU bed space, such as the length of gang validations, time spent on transfer lists, and expired transfer endorsements.
- The secretary should ensure that the department develops a process to accurately account for ASU costs statewide. The level of detail should include added special program costs, such as mental health, in addition to custody costs. The effective management of ASUs must consider both due process and cost factors.

California Department of Corrections and Rehabilitation's Response

OFFICE OF THE SECRETARY

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January 8, 2009

Mr. David R. Shaw
Inspector General
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

Dear Mr. Shaw:

This letter is being submitted in response to the Office of the Inspector General's (OIG) report titled *Special Review: Management of the California Department of Corrections and Rehabilitation's Administrative Segregation Unit Population*, dated January 2009. During this review, the OIG identified several violations of compliance with policies and procedures by California Department of Corrections and Rehabilitation (CDCR) institutions related to inmates housed in Administrative Segregation Units (ASU).

As with all OIG audits and special reviews, CDCR appreciates the OIG's continued commitment to improving our programs and operations. Within this special review, the OIG identified 2 findings and 12 recommendations for CDCR to consider addressing. As identified by the OIG, the Department acknowledges our need to improve the management of the ASU populations at California State Prison, Los Angeles County; California State Prison, Solano; and San Quentin State Prison.

The OIG reports that due process violations have occurred which have resulted in unnecessary operating costs. As you know, CDCR's operations are intricate and complex and we continually strive to resolve all identified deficiencies. In an effort to address these issues, CDCR will evaluate the standardization of procedures for all institutions related to the management of ASU populations. This will include developing standardized tracking systems, implementing appropriate management review tools, and providing training to staff involved in these processes.

I would like to thank the OIG for allowing CDCR the opportunity to comment on the special review and appreciate your continued professionalism and guidance in our efforts to improve our operations. CDCR's Office of Audits and Compliance will monitor and document the Department's progress in addressing the report's findings. If you should have any questions or concerns, please call my office at (916) 323-6001.

Sincerely,

MATTHEW L. CATE
Secretary