

Written Testimony of the Center for Constitutional Rights  
before the Public Safety Committee of the California State Senate  
June 12, 2012 Hearing on A.B. No. 1270 (Ammiano) - Prisons: Media access.

The Center for Constitutional Rights (CCR) is a legal, advocacy, and educational organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights.<sup>1</sup>

In May 2012, the Center for Constitutional Rights (CCR) filed a class action complaint in federal district court against the state of California on behalf of prisoners at Pelican Bay State Prison who have spent between 11 and 22 years in solitary confinement.<sup>2</sup> The legal action is part of a larger movement to reform inhumane conditions in California prisons' Security Housing Units (SHU), a movement sparked and dramatized by a 2011 hunger strike by thousands of SHU prisoners; the named plaintiffs include several leaders and participants from the hunger strike. *Ruiz, et al. v. Brown, Jr., et al.* is a federal class action challenging prolonged solitary confinement and deprivation of due process, based on the rights guaranteed under the Eighth and Fourteenth Amendments, at Pelican Bay. The case challenges inhumane, unconstitutional conditions under which thousands of prisoners live. *Ruiz* reasserts the importance of fundamental human rights, the Constitution's guarantee that no one may be subjected to cruel and unusual punishment, and that all are entitled to the due process of law.

**We write to underline the need for transparency measures such as the proposed media access bill.**

Today, tens of thousands of individuals across the country are detained inside cramped, concrete cells in a state of near-total solitude for 22 – 24 hours a day. At the Pelican Bay SHU, and at other California SHUs, prisoners are denied telephone calls, contact visits, and vocational, recreational or educational programming. Food is often rotten and barely edible, and medical care is often withheld.

More than 500 of Pelican Bay's SHU inmates have been held in solitary confinement for over 10 years. Over 78 prisoners have languished in solitary for more than 20 years. Most prisoners are

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<sup>1</sup> CCR works to advance and protect the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. Learn more about CCR at: <http://ccrjustice.org>

<sup>2</sup> Learn more about the case at <http://ccrjustice.org/pelican-bay>

housed alone in a single cell, denied the normal human interaction and contact necessary for mental and physical well-being.

The devastating psychological and physical effects of prolonged solitary confinement have been extensively documented by social scientists. Researchers have demonstrated that prolonged solitary confinement causes a persistent and heightened state of anxiety and nervousness, headaches, insomnia, lethargy or chronic tiredness, nightmares, heart palpitations, and fear of impending nervous breakdowns. Other documented effects include obsessive ruminations, confused thought processes, an oversensitivity to stimuli, irrational anger, social withdrawal, hallucinations, violent fantasies, emotional flatness, mood swings, chronic depression, feelings of overall deterioration, as well as suicidal ideation.

This extreme, prolonged exposure to life-shattering conditions clearly constitutes cruel and unusual punishment – in violation of the U.S. Constitution’s prohibition on cruel and unusual punishment, as well as international human rights standards.<sup>3</sup>

Moreover, the lack of due process and meaningless review mechanisms in place further place prisoners in isolation. Prisoners are assigned to the SHU based on alleged gang affiliation or vague or perceived gang activity. Further, review of the continued need for SHU confinement is limited to every six years, and these reviews are little more than rubber stamps for prisoners who refuse, or are unable, to debrief.

There are also grave concerns regarding the high percentage of people of color within the Pelican Bay SHU. The percentage of Latino prisoners in the Pelican Bay SHU was 85% in 2011, far higher than their representation in the general prison population, which was 41%. There are many Black prisoners in the SHU as well.

These concerning conditions have been allowed to persist because they are shielded from media scrutiny and the public.

Media access is especially critical considering recent developments in California prisons, including the Pelican Bay SHU. In 2011, prisoners across California organized two hunger strikes in protest of inhuman and degrading conditions of confinement and outlined five core

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<sup>3</sup> In August 2011, Juan Mendez, the United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, concluded that even 15 days in solitary confinement constitutes torture or cruel, inhuman or degrading treatment or punishment, and 15 days is the limit after which irreversible harmful psychological effects can occur. Many prisoners at Pelican Bay’s Security Housing Unit (SHU) have been isolated for decades.

demands. The hunger strikes garnered national and international media attention and helped to shine a light on Pelican Bay. Measures that establish more meaningful media access are critical steps towards ensuring transparency.

**Given these aforementioned concerns, the proposed media access bill is a critical step towards ensuring transparency.**

Currently, journalists are denied meaningful access to interview prisoners.<sup>4</sup> Journalists can only conduct random interviews with inmates who are preselected by the California Department of Corrections and Rehabilitation (CDCR). Journalists are also prohibited from recording interviews over fifteen minutes, and must be approved by the CDCR. The proposed bill permits interviews beyond the preselected list of prisoners and allows for the recording of interviews. The bill also ensures that journalists receive a response to their request within 48 hours and a written explanation if the request is denied. The Media access bill also prohibits retaliation against prisoners for speaking with members of the media.

This bill also upholds the freedom of the press and supports the free flow of information. The media's access to prisoners will allow for more overall access to information and transparency. Journalists and the media play a critical role in keeping the public better informed, and their reporting allows the public a more honest and comprehensive understanding of the conditions in our prisons. Journalists must be able to gather information, cover matters of public interest and share that with the public.

**Simply put, the time to restore meaningful media access is now.**

We urge the California legislature to pass this critical legislation. Restored media access will shed light on constitutional and human rights violations that the world must and deserves to hear. CCR respectfully asks the Public Safety Committee to support this legislation and to stand for accountability and transparency within our prisons.

Thank you for your time and consideration.

Sincerely,



Nahal Zamani  
Advocacy Program Manager, Center for Constitutional Rights

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<sup>4</sup> See AB 1270 Factsheet – California State Prisons: Media Access, available: <http://imgur.com/3BfQQ>