

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

TODD ASHKER, et al.,

Plaintiffs,

v.

GOVERNOR OF THE STATE OF  
CALIFORNIA, et. al.,

Defendants.

Case No.: 4:09-cv-05796-CW

CLASS ACTION

Judge: Honorable Claudia Wilken

**EXPERT REPORT OF EMMITT L. SPARKMAN**

**TABLE OF CONTENTS**

	<b>Page(s)</b>
I. INTRODUCTION .....	3
II. ASSIGNMENT .....	9
III. FOUNDATION .....	9
IV. OPINIONS.....	10
V. SPECIAL HOUSING UNIT (SHU) CONDITIONS OF CONFINEMENT .....	12
VI. CDCR PLACEMENT AND RETENTION OF OFFENDERS IN SPECIAL HOUSING UNITS.....	17
VII. OFFENDERS APPROPRIATE FOR LONG TERM SPECIAL HOUSING UNIT PLACEMENT .....	20
VIII. CDCR SPECIAL HOUSING UNIT STEP DOWN PROGRAMS .....	21
IX. CDCR REVISED SYSTEM FOR CONFINEMENT OF OFFENDERS IN SPECIAL HOUSING UNITS.....	26
X. CDCR USE OF CONFIDENTIAL INFORMATION.....	28
XI. RECOMMENDATIONS .....	30

## **I. INTRODUCTION**

1. I am a corrections administrator with over thirty-nine years' experience working in juvenile and adult community and institution corrections.
2. I have held line and supervisory positions in the states of Texas, Kentucky and Mississippi. These positions include; correctional officer, education consultant, correctional captain, correctional major, probation officer, intake-detention superintendent, director of security, director of education, and warden.
3. My experience includes both working in the public and private corrections sector. I served as a Warden of two private pre-release centers in the State of Texas, a 936 bed medium security prison in the State of Kentucky, and a 1,000 bed private medium security prison in Mississippi.
4. In June 2001, I was named the Superintendent of the Mississippi State Penitentiary a prison complex with 18 prisons that included a 1,000 bed supermax prison (Unit 32) housing death row and the highest risk offenders in the Mississippi Department of Corrections. I served in that position from June 2001 until December 2002.
5. I was appointed the Deputy Commissioner of Institutions for the Mississippi Department of Corrections in November 2002 and served in the position until May 2013 when I accepted the position of Education Director at the Mississippi State Penitentiary. As Deputy Commissioner for Institutions, I was responsible for three state prison complexes, five private prisons, and fifteen regional prisons. I also had responsibility for the classification, records, employee training, treatment, facilities/engineering and agriculture departments of the Agency.
6. While serving as the Deputy Commissioner for Institutions, I was required to accept special assignments at the Mississippi State Penitentiary from July 2007 until January 2008 and from February 2010 until May 2012. I directed major reforms to reduce the use of long term segregation at the Mississippi State

Penitentiary Supermax Unit 32 during my special assignment from July 2007 until January 2008 and continued those reforms as Deputy Commissioner for Institutions until May 2013.

7. My experience as a prison and corrections administrator includes responsibility for managing the custody, control, and treatment of long term segregation offenders. I have been a consultant to the states of Illinois, Maryland, Colorado, Oklahoma, New Mexico, and South Carolina assisting to develop strategies to reduce the use of long term segregation and improve conditions of confinement in these housing units. I participated in an evaluation of the Federal Bureau of Prisons' use of administrative segregation in 2014. My opinions are based on my substantial experience operating prisons, presiding over the institution division of a state-wide prison system for over ten years, and providing consulting services to multiple state prison systems on reducing the use of administrative segregation and implementing conditions of confinement improvements in segregation units. Since 2007, I have been actively involved in assisting the State of Mississippi and other corrections systems address the miss-use of long term segregation and improve conditions of confinement for those few offenders that require long term segregation. A complete copy of my curriculum vitae is attached as Exhibit 1, listing prior cases in which I have given testimony and all publications I have authored.
8. The Mississippi Department of Corrections operated a 1,000 bed Supermax Administrative Segregation Unit at the Mississippi State Penitentiary from the late 1980s until 2010. The Supermax (Unit 32) was comparable to the CDCR SHU Units in that it housed the Mississippi Corrections System's death row and high risk offenders in long term isolation for indefinite periods of time in single cells. Offenders were confined to their cells the majority of the time (twenty three hours of a twenty four hour day). The Supermax Unit 32 faced frequent litigation and in

Russell v Epps<sup>1</sup> the Federal Court ordered major reforms for death row offenders. These reforms were only required for death row offenders. Subsequently, in Presley v Epps<sup>2</sup> the plaintiffs brought litigation for the remaining offenders confined at the Supermax Unit 32. The Presley plaintiffs and the Mississippi Department of Corrections were in negotiations regarding the Supermax Unit 32 in the summer of 2007 when major incidents began to occur at the prison. The Supermax Unit 32 experienced a suicide, the smuggling of a firearm into the prison, three homicides, and multiple offender assaults on both offenders and staff. The crisis necessitated that Mississippi Department of Corrections Commissioner Christopher Epps assign me temporarily in July 2007 to the Supermax Unit 32 to assist with prison operations. The Mississippi Department of Corrections (MDOC) quickly determined the existing Supermax Unit 32 operation could not provide a safe and secure environment for offenders and staff. Violence was frequent and security threat groups (gangs), although confined in cells twenty-three hours per day, were causing continuous major disruptive activity. Serious negotiations were begun with the Presley plaintiff attorneys and experts to reform the Supermax Unit 32 operations. The first phase was to evaluate those offenders confined in the prison and correctly identify those offenders that were an actual physical threat to other offenders and/or staff. Working with the Presley Plaintiff Expert, Dr. James Austin, objective criteria was developed to identify those offenders that were a threat to offenders, staff and public safety by being assaultive, causing serious disruptive activity in prisons, seriously injuring others, causing major property damage, actively involved in disruptive gang activity, had escaped or attempted to escape from prisons with secure perimeters, and/or possessed weapons. Disruptive gang activity was

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<sup>1</sup> Russell et al v Robert L. Johnson et al (Mississippi Department of Corrections) No. 1:02CV261-JAD.

<sup>2</sup> Presley v Epps et al (Mississippi Department of Corrections) No. 4:05-cv-00148-JAD.

defined as activity that caused major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group.

9. Mississippi DOC leadership developed the phrase “identify who we are mad at and who we are afraid of”. Those the MDOC was “mad at” would be housed in a less restrictive environment and those MDOC was “afraid of” would be housed in higher security housing. Offenders previously placed in long term segregation because of the length of their sentence, non-violent rule violations and/or for solely being a member of a gang were no longer placed in indefinite long term segregation. Offenders MDOC leadership were “mad at” could be safely managed in a less restrictive environment and did not require long term indefinite segregation. The offenders MDOC Leadership termed “afraid of” were the offenders being assaultive, causing serious disruptive activity in prisons, seriously injuring others, causing major property damage, actively involved in disruptive gang activity, had escaped or attempted to escape from prisons with secure perimeters, and/or possess weapons. Disruptive gang activity was activity that caused major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group. These offenders required indefinite long term segregation.
10. MDOC Leadership determined that the existing Supermax Unit 32 operation had taken all hope from the confined offenders. Offenders viewed their administrative segregation confinement as hopeless without any clear path for a release to the general population. Offenders placed in administrative segregation for security threat group (gang) leadership and/or membership had minimal due process. The procedures for security threat group offenders to be released from administrative

segregation were subjective, complicated, and the offender had minimal input in the process. To complicate the process, procedures required the offender to provide all known information on his security threat group. This requirement, known to all offenders, placed their life in danger because any offender participating in the required program to be released from segregation was providing information on his security threat group and its members effectively labeling him a “snitch”. Severely mentally ill offenders were housed in the same units with non-mentally ill offenders. Treatment for the mentally ill offenders was infrequent and typically performed cell side with no privacy. Correctional staff received no specialized training on how to manage and supervise offenders confined in administrative segregation.

11. The MDOC by establishing objective criteria for placement of an offender in administrative segregation was able to reduce the population from approximately 1,300 offenders in July 2007 to approximately 325 in January 2008. The reforms significantly limited the reasons an offender could be placed in administrative segregation to serious assaultive activity, serious gang activity and attempted escapes or escapes from a secure perimeter. Disruptive gang activity was activity that caused major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group. Most offenders achieved release from administrative segregation within six months.
12. A small subset of offenders with a more serious history of violence and/or escape were instead given the opportunity to progress to general population conditions (while remaining segregated) within two to three years. These offenders’ progress to general population conditions of confinement was incremental, allowing offenders who had been in isolation for years to adjust over a period of time to reduced security requirements. The gradual progression allowed

correctional staff to monitor the offenders' adjustment to reduced security requirements before achieving maximum general population conditions of confinement in the administrative segregation setting.

13. Seriously mentally ill offenders in administrative segregation were separated from offenders without mental health issues. Correctional staff was required to receive forty hours specialized mental health training prior to assignment to administrative segregation units housing mental health offenders. Mental Health Programs were enhanced for the seriously mentally ill in administrative segregation with individual and group counseling provided outside of the cell. MDOC had a goal of discontinuing cell side assessments for all offenders confined in administrative segregation and begin face to face assessments in an office setting.
14. The security threat group procedures were revised to eliminate the requirement that an offender provide information on his security threat group and its members as a condition for release from administrative segregation. Placement in administrative segregation for security threat group involvement required rule violations and was not just predicated on being a member. All offenders were given clear instructions on the requirements to obtain release from administrative segregation or progression in an incentive program if retained in the status. After the reforms were implemented, the Mississippi Department of Corrections' major incidents in administrative segregation significantly declined.<sup>3</sup> The reforms allowed the Mississippi Department of Corrections to close Supermax Unit 32 in 2010.
15. The Mississippi Department of Corrections has successfully continued its reforms

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<sup>3</sup> T.A. Kupers, T. Dronet, M. Winter, J. Austin, L. Kelly, W. Cartier, T. J. Morris, S. F. Hanlon, E. L. Sparkman, P. Kumar, L. C. Vincent, J. Norris, K. Nagel, and J. McBride. "Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs." *Criminal Justice and Behavior* 36, no. 10, October 2009: 1037-1050.



on the use of administrative segregation, averaging approximately 300 offenders based on the information provided by the Agency Fact Sheet.<sup>4</sup>

16. Working with the Vera Institute of Justice, I and other consultants were able to assist the Illinois, Maryland, and New Mexico Corrections Systems reduce their administrative segregation and propose reforms to improve conditions of confinement.
17. In 2010, as a consultant for the National Institute for Corrections and then as a private consultant, Dr. James Austin and myself assisted the Colorado Department of Corrections institute reforms to improve conditions of confinement and reduce the population in administrative segregation.

## **II. ASSIGNMENT**

18. I have been retained by the Plaintiffs to evaluate and offer my opinion regarding the policy and operational practices of the California Department of Corrections and Rehabilitation's (CDCR) use of special housing units (SHUs).
19. I am being compensated at the rate of \$150 per hour for my work on this matter.
20. The focus of my review has been the CDCR regulations pertaining to the management, discipline, and housing of offenders and parolees found to be members, associates, or suspects of security threat groups.
21. My work in this matter is ongoing. This report summarizes my current opinions given the available information I have received to date. If additional information becomes available, I reserve the right to modify or supplement my analyses and opinions accordingly.

## **III. FOUNDATION**

22. I have utilized a variety of materials in the course of my review. A complete list of the materials I have reviewed in this matter is attached as Exhibit 2.

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<sup>4</sup> Exhibit 3, Mississippi Department of Corrections Fact Sheet, December 1, 2014.

23. In addition to the documents reviewed, I conducted a site visit to the Pelican Bay State Prison and toured parts of the prison on January 14, 2015.
24. I was retained in this matter in October 2013 by the Plaintiffs' counsel. My review commenced October 7, 2014, with Plaintiffs' counsel providing me a number of documents including; CDCR Regulations, CDCR Proposed Regulations, CDCR Department Review Board (DRB) Documents, DRB Class Member documents. Other documents reviewed later were the October 7, 2014, Security Threat Group Regulations, CDCR Staff Orientation Booklet-Security Threat Group Step Down Program, and the CDCR Employee Suzan Hubbard October 29, 2014, Deposition.

#### **IV. OPINIONS**

25. The CDCR Conditions of Confinement for offenders in SHU Units are harsh and result in extreme isolation and are counterproductive and unnecessary to provide a safe and secure corrections' system.
26. The CDCR does not restrict SHU placement and retention of offenders to individuals that are assaultive, cause serious disruptive activity in prisons, seriously injure others, cause major property damage, are actively involved in disruptive gang activity, have escaped or attempted to escape from prisons with secure perimeters, and/or possess weapons. Disruptive gang activity is activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group.
27. The CDCR's failure to restrict SHU placement and retention to offenders that are assaultive, cause serious disruptive activity in prisons, seriously injure others, cause major property damage, are actively involved in disruptive gang activity, have escaped or attempted to escape from prison with secure perimeters, and/or

possess weapons is not sound penologically and results in placement and retention of offenders in segregation who could be safely managed in a less restrictive environment.

28. The CDCR Correctional Staffs' minimal direct contact with SHU offenders discourages positive and meaningful communication that promotes a safe corrections' environment.
29. The CDCR Correctional Staffs' minimal direct contact with SHU offenders discourages positive and meaningful communication to prepare the offender for successful re-entry to the general population and the community.
30. The CDCR Correctional Counselor's only required contact, is a 180 day offender review that is indirect without face to face interaction, and is insufficient to adequately monitor a SHU offender's progress and status;
31. The CDCR Mental Health staffs' daily cell side observations of SHU offenders is insufficient to assess offender mental health.
32. The CDCR Staff Training Program does not provide correctional staff the necessary specialized training to supervise and manage SHU Offenders.
33. The CDCR places and retains offenders in SHU Units that could be safely housed in the general population.
34. The CDCR reliance on confidential information under previous and current regulations create a significant risk of over classification and/or inappropriate placement of offenders in SHU Units.
35. The CDCR SHU Treatment Programs are insufficient to prepare an offender for successful re-entry to the general population and community;
36. The CDCR SHU Stepdown Program has too many steps and length of stay for the steps is excessive.
37. The CDCR SHU Stepdown Program Steps 1 and 2 privileges/incentives are the same as SHU D Privileges and the additional SDP Steps are insufficient to

encourage offender participation and behavior change.

**V. SPECIAL HOUSING UNIT (SHU) CONDITIONS OF CONFINEMENT**

38. I conducted a site visit of the Pelican Bay State Prison on January 14, 2015. The CDCR Pelican Bay State Prison Litigation Coordinator, Public Information Officer, and a California Deputy Attorney General provided a tour of PBSP identified areas for Plaintiffs' Expert Dr. James Austin, Plaintiffs' Attorney Ann Weills, and myself.
39. There are two SHU Units at the Pelican Bay State Prison; Unit C contains twelve living pods with eight cells housing one or two persons per cell and Unit D consists of ten living pods with eight cells housing one or two persons per cell.
40. The PB SHU cell sizes are approximately 80 square feet. Cells do not have windows and only provide sky light viewing. PBSP officials conducting the tour reported that California OSHA requires 104 cells with Lexan cell fronts to protect staff and offenders. Lexan is a clear polycarbonate plastic used to cover the entire cell front door and exacerbates isolation for the assigned offenders and further restricts their contact with other offenders and staff. The availability of cells rather than offender behavior is the primary determining factor in placing an offender in a Lexan front cell.
41. Movement outside the living pod requires an unclothed search of the offender by staff at the pod entry/exit door before he has contact with correctional staff. SHU offender movement outside their living pods is in hand restraints. If an offender is taken out of the Housing Unit, his hand restraints are attached to a waist restraint. Offenders taken from the prison secure perimeter are placed in hand restraints with a "black box" covering the locking mechanism and attached to a waist restraint.<sup>5</sup> Leg irons are not utilized in movement unless the offender

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<sup>5</sup> A "black box" is a security device used to cover the locking mechanism of hand restraints to prevent tampering.

demonstrates disruptive activity that requires additional security measures.

42. SHU offenders and correctional staff have minimal contact. The design of the living pods allows a SHU offender to be released and return to his cell for showers and recreation without restraints or staff escort. Offender movement in SHU Living Pods is one cell at a time. Access to recreation is 1.5 hours daily, seven days a week and showers are three times per week. The staffing and physical plant appeared sufficient for the offenders to receive required access to exercise and showers. The exercise areas have solid concrete walls and are a sufficient size, with a pull up bar and a view to the sky with half of the top covered with lexan and the other section uncovered. The exercise area allows no view except to the sky, increasing isolation as there is no view of the outside environment.
43. PBSP correctional staff allows offenders, when exiting their cells for showers and exercise, to pass property and have brief conversations with offenders in other cells. The practice was observed in PBSP SHU D-4 by me, Dr. Austin, and Attorney Weills. The contact is brief and not meaningful for social interaction. Even so, it contradicts the CDCR's security rationale that SHU offenders require continuous isolation under harsh conditions to protect staff, other offenders, and members of the public. According to CDCR-PBSP officials conducting the tour for me, Dr. Austin and Attorney Weills, this is an informal policy and offenders are not formally authorized to pass property and have brief conversations with offenders in other cells.
44. At PBSP SHU staff interaction with offenders is limited to services provided outside the living pod, which require escorts by two staff. Such services include non-contact visitation on weekends (access to 4-three hour sessions) and legal department access (one time per week for priority legal users, and once every two weeks for general legal users with both receiving two hours per session).

45. Other contact includes correctional staff making welfare checks of offenders while they are confined in their cells. Mental Health Staff reportedly make daily rounds passing by each cell for the purpose of observing and inquiring if an offender is experiencing any mental health issues.
46. SHU offenders can also request a session with their correctional counselor or step down counselor. The only counselor required session is a 180 day classification review where the offender is removed from his living pod and placed in an interview cell in the main area of the living unit. Classification counselors have a caseload of approximately 100 offenders. The classification review or any other type contact is not face-to-face. The offender is in the interview cell, and the counselor is outside the cell with a barrier between the offender and the staff person, preventing face to face contact.
47. Correctional staff conduct cell searches daily, with each offender averaging a cell search approximately one time per month.
48. Social contact is very limited in the SHU. Visitation is non-contact, and on weekends, with no exceptions for visitors that have schedules that prohibit visiting on a weekend. SHU offenders not yet in the Step Down Program have no social telephone access. (As described below, the Step Down Program Steps allow an offender minimal use of the telephone.) Offenders in different living pods utilize the legal access area at the same time and can see each other. Regulations prohibit the offenders in the legal access area from having conversations with each other.
49. Offenders on SHU status can purchase televisions and radios. There is no formal mechanism to assist an offender without necessary funds to obtain a television and/or radio. Televisions receive approximately 25 channels for viewing. Many state corrections systems utilize television programming to provide formalized treatment/rehabilitation programming for offenders confined in specialized housing

units. This type of programming is not provided for Pelican Bay SHU offenders.

50. The PBSP site visit also included a tour of the Administrative Segregation Unit (ASU), Psychiatric Services Unit (PSU) and a General Population Housing Unit. The Administrative Segregation Unit offenders are reviewed by staff every 30 days compared to SHU offenders being reviewed every 180 days.
51. The PBSP exercise areas for the ASU and PSU walls are constructed with metal fabrication wiring allowing an outside view thus providing an improved exercise environment compared to the SHU. The PSU physical plant is conducive to the operation of a high security unit with improved conditions of confinement over those of the SHU physical plant. The PSU cells have a window (although glazed) and glazing could be easily removed allowing offender views to the outside. My correctional experience finds no justification for glazing of PBSP windows to prevent views to the outside. The PSU Treatment Services Area has offices and four rooms with security treatment modules; three rooms with six security treatment modules; and one room with five treatment modules to provide individual and group counseling. The PSU has a capacity of 128 offenders and on the day of the tour had a population of ten offenders. The PSU Unit would be conducive for conversion to a high security unit to house SHU offenders retained in the SHU warranting general population conditions of confinement.
52. CDCR correctional employees receive 16 weeks of training, 40 hours per week at the department academy, and another 40 hours training upon arrival at their assigned prison. Correctional Officers participate in a two year apprenticeship program before becoming a certified correctional officer. PBSP officials conducting the tour advised that correctional staff assigned to SHU Units do not receive any formal specialized training on supervising and managing SHU offenders.
53. It is my expert opinion that confinement conditions at the Pelican Bay SHU lack

penological justification, and are counterproductive to institution security.

54. There is no penological justification for conditions of confinement in Special Housing Units which maximize isolation more than is necessary to ensure the safety of offenders and staff. Institutional security requires that offenders should have direct contact with staff outside of the cell for medical, mental health, and counseling services. Only on rare occasions, when an offender is actively disruptive, should services be provided at cell side. Social interaction through telephone calls and visits with immediate family serves, rather than detracts from institutional concerns and impacts the offender's mental and physical well-being. My corrections experience has found the removal of social stimuli for extended periods causes an offender to experience hopelessness and anger. Over time he becomes increasingly more difficult to manage.
55. My experience with the Texas, Kentucky and Mississippi corrections systems and consulting in other state corrections systems has found blanket use of harsh administrative segregation conditions of confinement (like those at Pelican Bay SHU) is counterproductive and does not lead to a safer and secure prison. Harsh conditions of confinement exacerbate offender hopelessness and increase disruptive and dangerous offender behavior. There is no penological justification for imposing harsh conditions of confinement in administrative segregation on offenders who are not actively disruptive offenders. Even then, and as discussed below, harsh conditions are only penological valid when imposed for short durations until the active disruptive behavior ceases.
56. In contrast to the harsh conditions at Pelican Bay SHU, the experience in the Mississippi Department of Corrections of allowing administrative segregation offenders significant increased out of cell time and social interaction with other offenders was successful in changing offender behavior.
57. A cell front offender assessment without privacy and limited ability to



communicate does not provide the means to properly evaluate an offender.

58. The more frequent reviewing of offenders in the PBSP ASU provides the opportunity for correctional staff to monitor their needs and change their housing status in a timelier manner than provided to PBSP SHU offenders.

**VI. CDCR PLACEMENT AND RETENTION OF OFFENDERS IN SPECIAL HOUSING UNITS**

59. Administrative Segregation or SHU conditions of confinement result in extreme social isolation and limit an offender's opportunity to participate in rehabilitative and treatment programs necessary for him to return and successfully live in the community. The majority of incarcerated offenders will return to the community after completing their prison sentence. There are studies that indicate the practice of releasing offenders from isolation directly to the community is associated with an increased risk of recidivism.<sup>6</sup> The negative impact of isolation on an offender's probability of being able to successfully reintegrate into the community necessitates that long term segregation is used only for that small percentage of offenders that are assaultive or cause serious disruptive activity in prisons that seriously injure others and/or cause major property damage, continuously possess weapons, escape or attempt to escape from high security prisons.
60. There is no penological justification for long term special housing of offenders for investigation, protective custody, non-violent rule violations, length and/or type of prison sentence. Gang membership or association with gangs should not be a reason for placement in a long term special housing unit; unless, the individual is leading, directing and/or participating in violent, disruptive and/or destructive activities that causes major property damage and/or serious physical injury to staff, other offenders or members of the public.

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<sup>6</sup> David Lovell and Clark Johnson, Felony and Violent Recidivism Among Supermax Prisoners in Washington State: A Pilot Study, 2004.

61. Placement in long term special housing units has an impact on the medical and physical health of offenders. Studies have determined offenders in long term special housing unit suffer extreme isolation that can cause deep profound sadness and loss that results in anxiety, depression and/or anger.
62. The CDCR has a significant number of offenders that have been placed and retained in special housing units for years based on past assaultive behavior and/or involvement with security threat groups. This practice has been utilized by many state prison systems and the Federal Bureau of Prisons since the late 1980s although not to the extent of the CDCR. However, in recent years, most notably beginning with the Mississippi Department of Corrections in 2007, the use of long term segregation for offenders is being re-evaluated. I am aware Corrections systems in Colorado, Illinois, Maryland, New Mexico, Oklahoma, Maine, and South Carolina are moving forward with prison reforms to significantly reduce administrative segregation populations. Mississippi, Illinois, Maryland, Colorado, and New Mexico have been successful in reducing their administrative segregation population without an increase in overall serious incidents and improving conditions of confinement for the remaining offenders in administrative segregation.
63. In my work and consulting experience with administrative segregation, I have found state systems and the Federal Corrections System place and retain offenders in administrative segregation without significant justification contending it is necessary to operate a safe and secure prison. I am very familiar with the reforms successfully implemented by the state corrections systems in both Mississippi and Colorado to prevent inappropriate placement of offenders in administrative segregation and limit the length of stay while improving conditions of confinement.
64. In my work and consulting experience with administrative segregation, I have

found many offenders in administrative segregation for inappropriate reasons; protective custody, minor rule violations, gang membership only, drug offenses, length of sentence or type of violent criminal sentence. Decisions to retain offenders had little if anything to do with current behavior in Administrative Segregation, and positive behavior while confined on the status had minimal impact on release and retention decisions. My review found that although the majority of state corrections systems and the Federal Corrections System house offenders that can be housed safely and securely in the general population or with improved conditions of confinement in Special Housing Units, the CDCR places and retains more offenders without safety and security justification for longer periods of time with harsher conditions.

65. Special Housing Units (Administrative Segregation) for long term confinement of offenders (over 60 days) is only penologically justified when utilized for individuals that are assaultive or cause serious disruptive activity in prisons, that seriously injure others and/or cause major property damage, continuously possess weapons, escape or attempt to escape from high security prisons.
66. Classification to Special Housing Units for the stated reasons should be instituted after a due process disciplinary hearing and finding of guilt for one of these serious offenses. After placement, offenders should be given the opportunity to earn improved conditions of confinement at six month reviews with reduced security requirements and improved privileges through positive behavior. The goal is general population conditions of confinement being achieved within two to three years if not released from the special housing unit.
67. The offenders that fall in this category must be given the opportunity to have decreased security requirements and graduated privileges with positive behavior. An offender with this type of profile should have the opportunity to graduate to general population conditions of confinement in an administrative segregation

environment based on his behavior even if he cannot be released to the general population.

**VII. OFFENDERS APPROPRIATE FOR LONG TERM SPECIAL HOUSING UNIT PLACEMENT**

68. The Mississippi Department of Corrections successfully reduced their long term administrative segregation population in 2008 to approximately 325 offenders by formulating a policy that restricted placement of offenders in long term administrative segregation to:
- A. Offenders behaving violently and aggressively while incarcerated.
  - B. The behavior includes possession of major contraband not limited to:
    - 1. Weapons that are capable of inflicting death
    - 2. Ammunition that includes bullets, gunpowder, or shells
    - 3. Escape instruments that include substance, device, or article designed or specifically adapted for criminal use in an escape attempt.<sup>7</sup>
  - C. Offenders actively involved in disruptive gang activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public while being a confirmed leader, enforcer, disruptive core member, or recruiter of a security threat group identified by the Mississippi Department of Corrections.
  - D. Offenders that escape or attempt to escape from within a security perimeter and/or custody of direct supervision.
  - E. Offenders that commit a felony while on escape from a community correctional facility.
  - F. Based on specific objective criteria set forth in writing there is a significant risk that an offender will cause physical injury to prison staff, other offenders, or member of the public if he is housed in the general population, even at the high security level.<sup>8</sup>

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<sup>7</sup> An item must be capable of causing injury and/or death or an escape device to be defined as major contraband in this context.

<sup>8</sup> Exhibit 4, Mississippi Department of Corrections. Administrative Segregation Longer-Term Status Recommendation Form 19-01-03-F3.

69. Even for this core group of dangerous offenders, my corrections work experience and consulting on administrative segregation has convinced me the majority of offenders placed in long term administrative segregation (special housing units) with appropriate behavior can be released from the status to the general population generally in six months. In Mississippi, offenders with appropriate behavior are released to the general population after six months or can obtain general population conditions of confinement in a special housing unit within two to three years.
70. There are a small percentage of offenders due to their history of violence, escape behavior, involvement in disruptive gang activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public and/or their high profile status that cannot be released from administrative segregation without completing a “step down program” to enhance successful reintegration back to the general population. A very small percentage may require an extended stay in long term administrative segregation even with exemplary behavior. Offenders that have a lengthy history of 1) serious assaultive behavior directed at other offenders and/or staff, 2) frequent escapes or attempted escape or 3) are identified as “high profile” and subject to be harmed by other offenders if released to the general population, would fall in this category. An example would be a high level gang leader who could be in danger from members of his own or a rival group(s). These offenders should have the ability to achieve general population conditions of confinement in an administrative segregation unit to recognize their positive behavior.

#### **VIII. CDCR SPECIAL HOUSING UNIT STEP DOWN PROGRAMS**

71. In my work with other state corrections systems regarding administrative segregation, increasingly step down programs are being utilized as a means for an

offender to progress to the general population. Separately, a small percentage of offenders who require retention in high security units receive improved conditions of confinement commensurate to those in the general population. These approaches (administrative segregation step down programs for phasing to the general population or administrative segregation units with simulated general population conditions of confinement) are only penologically justified for this small percentage of offenders who have committed offenses causing serious bodily injury or death and/or have attempted escape or escaped from maximum security prisons.

72. The Mississippi and Colorado Department of Corrections have successfully instituted step-down programs for the high risk offenders that have a history of escape or serious assaultive behavior in prison. As the classified high risk offender progresses through administrative segregation step down program phases, his conditions are modified to allow routine and regular out of cell contact and programming in small high security living units. The initial phases of the step down programs begin with a reduction of heightened security requirements found in administrative segregation units, and ultimately at the highest phase security requirements in the confined unit mirror those in the general population.
73. Offenders who have been in administrative segregation continuously for over six months and display positive behavior need to be given incentives to continue their behavior. Continuing an offender in administrative segregation while he is demonstrating appropriate behavior is penologically counterproductive, as it only demoralizes him and makes him susceptible to the previous influences and actions that resulted in his initial placement. The initial phases should modify the typical administrative segregation conditions of confinement by reducing unclothed searches and restraint requirements and increasing out of cell time. This provides corrections officials the opportunity to monitor the offender and determine if he

can safely be managed and supervised without normal administrative segregation security requirements.

74. CDCR Step Down Programs do not have the necessary incentives to motivate an offender to participate. CDCR Step Down Steps 1 and 2 are designed to be twelve months for each step and are usually at Pelican Bay State Prison. Steps 1 and 2 each can be reduced to 180 days if the Institution Classification Committee determines the offender has completed all required components and has expressed a sincere desire to participate. Programming is generally completed in the cell with all offender movement in restraints. Program assessments include the TABE and COMPAS. Program electives are available such as Criminal Gangs Anonymous, Purpose Driven Life and Victim Awareness.
75. There are minimal incentives for offenders to participate and successfully remain in the step down program. The CDCR Step Down Program Steps 1 and Step 2 have administrative segregation conditions of confinement found in corrections systems in the United States with the exception of an increase of five to ten hours of individual yard. The CDCR SHU conditions of confinement are harsher because offenders are not allowed telephone calls and cells have no windows. For all practical purposes, Steps 1 and 2 are identical, with the one exception that individual treatment modules can be utilized for programming in Step 2. In both steps, meals are consumed in the cell, showers are three times per week, programming is conducted in the assigned cell and visits are non-contact. Offenders may be allowed a total of one social telephone call at Step one, if he has a successful 180 day review, and a second single call upon progressing to Step 2.
76. Step 3 is for 12 months and is usually at the California Correctional Institution, California State Prison-Corcoran or California State Prison-Sacramento. Programs include education and cognitive behavior components such as criminal

thinking, anger management, victim awareness, and family relationships. Programming is completed in cell or in individual treatment modules. Group facilitation begins at this phase in Individual Treatment Modules. All movement for offenders is in restraints.

77. Step 4 is twelve months and is also usually at the California Correctional Institution, California State Prison-Corcoran or California State Prison-Sacramento. Programming includes education and cognitive behavior components such as modified rational thinking, communication skills and transition. Programming is completed in individual treatment modules and small groups within the housing unit or program areas. Offender movement may still be in restraints and meals are consumed in small groups in the housing unit. After the first six months, yard time is expanded from with their cell mate to include other offenders with diverse affiliations for the remaining six months of the twelve month step.
78. Step 5 is generally completed in twelve months at a Level IV 180 design institution for male offenders. This phase is for the purpose of observing offenders for transition back to the general population or sensitive needs yard setting. Movement, meals, yard time, and privileges for Step 5 offenders are consistent with the general population or sensitive yard population.
79. CDCR utilizes *The Change Companies' Self-Directed Journals* for Step 3 and 4 focusing on helping high-risk inmates live a lifestyle free of criminal activity, violence, and drug use. The Mississippi Department of Corrections has a similar program available for high risk offender participation at the Mississippi State Penitentiary.<sup>9</sup> Mississippi Department of Corrections offenders participating in

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<sup>9</sup> The Change Companies Program for high risk offenders at the Mississippi State Penitentiary is coordinated by a staff person that receives only one hour of training to coordinate the program. Offenders generally spend 9-10 hours per week completing journals for 52 weeks or approximately 500 hours and meet with the instructor one time per week for approximately one hour in groups to discuss their journals. The program has minimal formal participation by offenders and the coordinator.



this program are in the general population and have weekly group interaction. Offenders in the CDCR Stepdown Program receive education through the Voluntary Education Program Model (VEP). Based on the population's education needs and academic reading levels, the School Principal determines the appropriate way to provide education. Academic opportunities for Step Down offenders are provided through VEP delivery models. College program access is determined by the operational needs of the prisons and the offender's ability to pay for course work. Programs do not actually qualify as voluntary as an offender must participate to progress through the CDCR Stepdown Program.

80. Sound correctional practice requires heightened management of offenders that have demonstrated a propensity of violence towards other offenders or staff. Utilizing administrative segregation step down programs allows corrections officials the opportunity to monitor high risk offenders over time with graduated incentives and reduced security requirements before the individual is released to the general population or community. This provides corrections officials the opportunity to identify where the offender can be safely managed and supervised while incarcerated.
81. The CDCR Stepdown Program is not based on sound correctional practice. It has too many steps, the length of time for each step is excessive and the minimal privileges and security requirements for each step does not encourage offender participation. Steps 1 and 2 do not provide sufficient increased privileges and lessened security requirements to assess an offender's risk. There is absolutely no penological justification for placing offenders on Steps 1 or 2 who have been confined in CDCR Special Housing Units and qualify for placement in the CDCR Step Down Program. Offenders that qualify for the CDCR Step Down Program should be, at a minimum, considered for placement in Step 3, and strong consideration should be given for placement in Step 4; unless, there is clear and

documented history of violence and/or escape that made additional requirements and monitoring at Step 3 necessary to provide a safe and secure environment for offenders and staff.

82. The CDCR SHU/SDP has an offender STG debriefing component for each step of the program. Offender STG debriefing during the SHU/SDP steps has no meaningful sound penological purpose. An offender providing information about his or other offender(s) STG involvement does not provide correctional administrators a mechanism to determine his present or future risk to staff, other offenders or members of the public. Realistically, the debriefing component creates a greater risk, due to offender participation being viewed as “snitching” on others or groups and results in violence as retaliation for being an informant.
83. In my opinion, debriefing is not a meaningful option for most offenders because of the risk to his safety. Sound penological practice requires other options besides debriefing for an offender to obtain his release from the SHU.

**IX. CDCR REVISED SYSTEM FOR CONFINEMENT OF OFFENDERS IN SPECIAL HOUSING UNITS**

84. In my expert opinion, along with failing to provide appropriate incentives, the revised CDCR system for confinement of offenders in special housing units does not adequately correct California’s over-assignment of offenders to the SHU. The new program still allows for SHU placement and retention of offenders who could be securely housed in the general population. Security Threat Group (STG) I validated members are automatically placed in Step 1 of the Special Housing Unit Step Down Program (SDP). Placement in Step 1 of the SDP can occur without the offender being actively involved in disruptive gang activity, as a confirmed leader, enforcer, disruptive member, or recruiter of a STG. STG I Associates, STG II Members and STG Associates validated with source items that include serious STG behavior or activity as listed in the STG Disciplinary Matrix are

considered for placement in a SDP when found guilty of two STG related administrative rule violations within a preceding twelve month period, found guilty of one serious rule violation or found guilty of two STG related serious rule violations. The CDCR STG Disciplinary Matrix has non-violent serious rule violations that can trigger SHU/SDP placement along with administrative rule violations. CDCR rule violations appropriate for triggering SHU/SDP placement are major property damage and/or serious physical injury to staff, other offenders or members of the public and escape or attempted escape. Non-violent rule violations are not appropriate for justifying CDCR SHU/SDP placement.

85. Long term special housing unit placement and retention should be reserved for offenders; 1) behaving violently and aggressively while incarcerated, 2) actively involved in disruptive gang activity and a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group, 3) have escaped or attempted to escape from a security perimeter and/or custody or direct supervision, 4) possessing weapons and/or 5) specific objective criteria set forth in writing has determined there is a significant risk the offenders will cause serious physical injury to prison staff, other offenders, or member of the public if housed in the general population. Disruptive gang activity is activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member, or recruiter of a security threat group. CDCR utilizing non-violent serious rule violations and administrative violations are inappropriate as justification for placement of offenders in long term special housing units. Placement of offenders in special housing units in this category causes harm to the offender, unnecessarily isolating him without social interaction, is not conducive to providing a safe and secure environment and is fiscally irresponsible. Moreover, staffing and operation costs for special housing units are significantly higher

compared to general population housing units.

**X. CDCR USE OF CONFIDENTIAL INFORMATION**

86. CDCR Title 15 3321.c1-4 prior to the October 17, 2014 revision established confidential reliability by using one or more of the following criteria; 1) the confidential source had previously provided information to be true, 2) other confidential sources had independently provided the same information, 3) the information provided by the confidential source was self-incriminating, 4) part of the information provided was corroborated through investigation or by information provided by non-confidential sources, and 5) the confidential source was the victim.
87. Use of confidential information and sources must have protections for the accused. Safeguards must be in place that provides the accused sufficient details to defend him against the confidential source and/or information.
88. The previous CDCR Regulations provided the opportunity for confidential sources and materials to be used by staff to incorrectly classify and place offenders in special housing units. Reliability establishment only required a single criterion. A source previously providing reliability should not solely establish his reliability for the future. Other sources independently providing the same information does not prevent sources from conspiring to provide false information. Self-Incriminating information for reliability without other corroborating evidence can result in erroneous findings of fact. Part of the information being corroborated by a non-confidential informant does not establish overall reliability to make an informed decision. Confidential reliability based solely on victim information without other corroborating evidence can result in erroneous decision(s). Unfortunately, victims have made incorrect identification in both prison and community settings. The use of confidential sources and

information in corrections settings must be utilized very carefully. Confidential sources and information is an administrative tool and should not be solely utilized to make decisions. *Hensley v. Wilson* in its opinion stated, “To make a decision based on the factual evidence presented, and part of a disciplinary committee’s task must be to make a bona fide evaluation of the credibility and reliability of the evidence. In a prison environment, where authorities must depend heavily upon informers to report violations of regulations, an inmate can seek to harm a disliked fellow inmate by accusing that inmate of wrongdoing. Since the accuser is usually protected by a veil of confidentiality that will not be pierced through conformation and cross-examination, an accuser can easily concoct the allegations of wrongdoing. Without a bona fide evaluation of the credibility and reliability of the evidence presented, a prison committee’s hearing would thus be reduced to a sham which would improperly subject an inmate accused of wrongdoing to an arbitrary determination”.<sup>10</sup> The same can be said for classification of the offender to special housing units. Safeguards must also be in place to prevent offenders and others from providing false information that is reportedly reliable to receive favor from prison officials. My corrections experience has found offenders and others will provide false information, reported as reliable, to improve their personal situation or that of another person.

89. The revised regulation 15 CCR 3321 Confidential Information still provides the opportunity for confidential sources and materials to be used by staff to incorrectly classify and place offenders in special housing units. The reliability of a confidential source in 15 CCR 3321.c. may be established by one or more of the following criteria; 1) the confidential source has previously provided information which proved to be true, 2) other confidential source have independently provided

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<sup>10</sup> *Hensley v Wilson*. 850 F.2d 269 (6<sup>th</sup> Circuit 1988)

the same information, 3) the information provided by the confidential source is self-incriminating, 4) part of the information provided is corroborated through investigation or by information provided by non-confidential sources, 5) the confidential source is the victim, and 6) this source successfully completed a polygraph examination. The revised 15 CCR 3321 still has that a single criteria may be used to establish a confidential source is reliable. The only change is reliability can be established with a source successfully completing a polygraph examination. The revised 15 CCR 3321 does not have the necessary safeguards to ensure the accused is provided sufficient details to defend him against the confidential source and/or information. As earlier opined, confidential sources and information are an administrative tool. It is not penologically sound to solely utilize confidential sources and information to make SHU placement decisions.

## **XI. RECOMMENDATIONS**

90. CDCR should only place and retain offenders in the SHU that are one or more of the following; assaultive, cause serious disruptive activity in prisons, seriously injure others, cause major property damage, are actively involved in disruptive gang activity, have escaped or attempted to escape from prison with secure perimeters, and/or possess weapons. Disruptive gang activity is activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member or recruiter of a security threat group. SHU placement should not be solely for STG I membership.
91. Participation in the CDCR SHU SDP should be for those offenders with a history of one or more of the following; assaultive, cause serious disruptive activity in prisons, seriously injure others, cause major property damage, are actively involved in disruptive gang activity, have escaped or attempted to escape from

prison with secure perimeters, and/or possess weapons. Disruptive gang activity is activity that causes major property damage and/or serious physical injury to staff, other offenders or members of the public with the offender being a confirmed leader, enforcer, disruptive member or recruiter of a security threat group.

92. CDCR SHU Step Down Program Conditions of Confinement should be revised to limit isolation. Reformed conditions of confinement should include but not be limited to; increased face to face contact with staff providing services, monthly telephone calls, visitation schedules that encourage visits including alternative schedules for visitors that cannot visit during normal times, means for offenders without funds to obtain a radio and television; and recreation areas that allow viewing to the outside without solid walls.
93. The CDCR Step Down Program should be reduced to three steps with the highest level achieved in 2 years; Step 1 should be for six months with privileges that exceed those of CDCR SHU Privilege D status, Step 2 should be 12 to 18 months with reduced security requirements that allow activities without restraints and group activities as the offender progresses in the step, Step 3-Indefinite with privileges and conditions of confinement commensurate with the general population. The majority of Step Down Program offenders should be released to the general population upon completion of the Step 2. Only those offenders that have a history of one or more of the following should be considered for retention in Step 3;
  - committing serious assaults and/or homicide
  - cause serious disruptive activity in prisons
  - seriously injure others
  - cause major property damage
  - are actively involved in disruptive gang activity that causes major property damage and/or serious physical injury to staff, other offenders and members of the public and are a confirmed leader, enforcer, disruptive member, or recruiter
  - have escaped or attempted to escape from prisons with secure perimeters

- possess weapons
  - based on specific objective criteria set forth in writing are a significant risk to cause serious physical injury to prison staff, other offenders, or member of the public if housed in the general population, even at the high security level
94. SHU offenders maintained at Step 3 could be released by responsible CDCR Officials at any Step 3 review although retention is indefinite. SDP reviews for Step 1, 2, and 3 should be face to face with correctional staff in an office setting and conducted every 90 days to appropriately monitor the progress and adjustment of the offender in the SDP.
95. Offender reviews by correctional counselors should be at a minimum monthly, face to face, and in an office setting unless current behavior would endanger staff or others.
96. SHU and Step Down Treatment and Rehabilitation Programs should be evidence based and provided by licensed and/or certified treatment staff;
97. Licensed and/or Certified Mental Health staff should have face to face interviews with all SHU offenders in an office setting at a minimum every 30 days.
98. Prior to SHU assignment, Correctional Staff should receive 40 hours specialized training on the supervision and management of SHU offenders;
99. Any offender currently retained in the SHU on confidential information should have the information/source evaluated for reliability. Confidential information and/or sources are an administrative tool and should not be solely utilized to continue placement of an offender in the SHU or SHU SDP.

  
\_\_\_\_\_  
Emmitt L. Sparkman

Dated: March 5, 2015



## **Exhibit 3**

# Mississippi Department of Corrections

Fact Sheet  
As of December 1, 2014

## ACTIVE OFFENDER POPULATION

### BY TYPE

	NO. OF OFFENDERS	% OF TOTAL OFFENDERS
<b>INMATES</b>		
Custody Population (Inmate and RID status)	19,150	29.34%
Community Corrections (ERS, ISP, Medical Release)	2,461	3.77%
Other Custody	521	.80%
At Large (Escapes & Walk-Aways)	28	.04%
Off-Grounds Medical (Hospital)	12	.02%
<b>INMATE TOTAL</b>	<b>22,172</b>	<b>33.96%</b>
<b>PAROLEES</b>		
TVC Parole	9,669	14.81%
	235	0.36%
<b>PROBATIONERS</b>		
TVC Probation	33,061	50.65%
	142	0.22%
<b>PAROLEE AND PROBATIONER TOTAL</b>	<b>43,107</b>	<b>66.04%</b>
<b>TOTAL INMATES, PAROLEES, &amp; PROBATIONERS</b>	<b>65,279</b>	<b>100.00%</b>

## INMATE STATISTICS

### BY LOCATION

	CAPACITY	NO. OF OFFENDERS	% OF TOTAL OFFENDERS
Mississippi State Penitentiary	4,648	3,037	13.70%
Central Mississippi Correctional Facility	3,469	2,088	9.42%
South Mississippi Correctional Institution	3,282	2,622	11.83%
Youthful Offender Facility	58	33	0.15%
County Jails - Approved*	1,973	1,173	5.29%
County Jails - Unapproved**	0	106	0.48%
Community Work Centers	1,848	1,101	4.97%
TVC	350	3	0.01%
<b>TOTAL STATE, COUNTY JAILS, CWC FACILITIES</b>	<b>15,626</b>	<b>10,163</b>	<b>45.84%</b>
<b>Regional Correctional Facilities</b>			
Alcorn County Correctional Facility	300	298	1.34%
Bolivar County Correctional Facility	367	359	1.62%
Carroll County Correctional Facility	274	263	1.19%
Chickasaw County Correctional Facility	299	300	1.35%
George County Correctional Facility	271	260	1.17%
Holmes County Correctional Facility	268	264	1.19%
Issaquena County Correctional Facility	274	257	1.16%
Jefferson County Correctional Facility	280	259	1.17%
Kemper County Correctional Facility	355	330	1.49%
Leake County Correctional Facility	280	254	1.15%
Marion County Correctional Facility	280	273	1.23%
Stone County Correctional Facility	280	269	1.21%
Washington County Correctional Facility	300	281	1.27%
Winston County Correctional Facility	280	267	1.20%
Yazoo County Correctional Facility	300	283	1.28%
<b>TOTAL REGIONAL FACILITIES</b>	<b>4,408</b>	<b>4,217</b>	<b>19.02%</b>
<b>Private Prisons</b>			
Delta Correctional Facility	972	0	0.00%
East MS Correctional Facility	1,500	1,181	5.33%
Marshall County Correctional Facility	1,000	989	4.51%
Walnut Grove Correctional Facility	1,500	1,290	5.82%
Wilkinson County Correctional Facility	1,000	864	3.90%
<b>TOTAL PRIVATE PRISONS</b>	<b>5,972</b>	<b>4,334</b>	<b>19.55%</b>
Community Trusties	22	6	.03%
Emergency Suspension	0	0	.00%
Pending File Review	0	185	.85%
Court Order	0	233	1.05%
<b>TOTAL CAPACITY &amp; CUSTODY POPULATION</b>	<b>26,008</b>	<b>19,148</b>	<b>86.36%</b>
Intensive Supervision Program	0	1,328	5.99%
Earned Release Supervision Program	0	1,113	5.02%
Medical Release	0	20	0.09%
<b>TOTAL COMMUNITY CORRECTIONS</b>	<b>0</b>	<b>2,461</b>	<b>11.10%</b>
Other Custody	0	521	2.35%
Transitional Housing	0	2	0.01%
Off-Grounds Medical (Hospital)	0	12	0.05%
At Large (Escapes & Walk-Aways)	0	28	0.13%
<b>TOTAL</b>	<b>26,008</b>	<b>22,172</b>	<b>100.00%</b>

Pre-classification records included in the above total.

\*NOTE: The jail capacity is approved by the courts, and includes inmates, sheriff trustees, and work program participants.

\*\*NOTE: The number of offenders in unapproved jails includes inmates on waiver and inmates still under the 30 day deadline, awaiting transfer.

**Mississippi Department of Corrections  
Active Inmates with an Active Alert Type  
of Long Term Adm Seg**

	Total
CMCF 720	1
CMCF R&C	13
CMCF WMN MAX	2
EMCF MEDICAL	2
EMCF UNIT 5	105
EMCF UNIT 6	1
HARRISON CC	1
HARRISON CJ	1
MCCF DORM D	25
OTHER CUSTODY	5
SMCI 2 INFIRMARY	1
SMCI 2 LOCKDOWN	26
UNIT 29	20
WCCF BUILDING E	87
Total	290

## **Exhibit 4**

**Mississippi Department of Corrections  
Administrative Segregation Long-Term Status Recommendation Form**

Inmate Name	MDOC No.	Housing Unit	Date

This form is to be used by the Facility's Controlling Authority to make a referral to the Central Classification Division for recommending that an offender be transferred to the Administrative Long Term {Exceeds sixty (60) days} Segregation Unit. In making this referral the Facility's Controlling Authority must document the precise reasons with adequate documentation of the referral. *The offender must represent a severe threat to the safety and security of the institution.*

*Indicate (with a check) which of the following behavioral categories apply to the offender's proven behavior—check all that apply, and attach the supporting documents and evidence relied on for any recommendation:*

- The offender has behaved violently and aggressively while incarcerated. This behavior includes possession of major contraband but is not limited to:
  - a. Weapons that are capable of inflicting death
  - b. Ammunition that includes bullets, gunpowder, shots, or shells
  - c. Escape instruments that include substance, device, instrument, or article designed or specifically adapted for criminal use in escape attempt

List below the precise dates and location these incidents occurred. Attach documents that support a referral for this category.

- 1. Date: \_\_\_/\_\_\_/\_\_\_ Location: \_\_\_\_\_
- 2. Date: \_\_\_/\_\_\_/\_\_\_ Location: \_\_\_\_\_
- 3. Date: \_\_\_/\_\_\_/\_\_\_ Location: \_\_\_\_\_

- The offender is actively involved in disruptive gang activity and is a confirmed leader, enforcer, disruptive core member, or recruiter of a Security Threat Group identified by the Mississippi Department of Corrections.
- The offender has escaped or attempted to escape from within a security perimeter and/or custody of direct supervision.
- The offender committed a felony while on escape from a community correctional facility.
- The Commissioner or his designee determines, based on specific objective criteria set forth in writing that there is a significant risk that the offender will cause physical injury to prison staff, other offenders, or members of the public if he is housed in general population, even at the highest security level.

**Reason for Recommendation:**  
 \_\_\_\_\_  
 \_\_\_\_\_

- yes  no Was the offender notified of the appeal procedures?
- yes  no Was the offender given a copy of the Notice to Appeal form?
- yes  no Was the offender given a copy of this document?

Signature of Offender: \_\_\_\_\_ Date \_\_\_\_\_

Facility's Controlling Authority \_\_\_\_\_ Date \_\_\_\_\_

Director of Offender Services:  Approve  Disapprove \_\_\_\_\_ Date \_\_\_\_\_