



# California State Senate

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

December 1, 2010

Matthew L. Cate  
Secretary, Department of Corrections and Rehabilitation  
Office of the Secretary  
P.O. Box 942883  
Sacramento, CA 94283-0001

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

Dear Secretary Cate and Inspector General Shaw:

As you know, in May of this year we expressed to each of you and to the Governor serious concerns about allegations of inmate abuse in the behavior management unit at High Desert State Prison ("BMU"), and how those allegations were handled by the California Department of Corrections and Rehabilitation (CDCR) and the Office of the Inspector General (OIG). Since that time, with the cooperation of your agencies, Senate staff has reviewed hundreds of documents and conducted numerous interviews to better understand and assess these allegations. The purpose of this letter is to share with you the substance of our inquiry, and to engage your partnership in improving your departments' systems of accountability to ensure that allegations of abuse and misconduct in correctional institutions are addressed swiftly, systematically, and fairly for all involved.



The Senate's review of the BMU allegations indicates that reports of inmate abuses reached department officials through several different sources, but did not trigger a complete or, in every instance, methodical response. As explained below, it appears that CDCR's and OIG's responses in this case – with reports of inmate abuse coming from different sources through sometimes informal means – was largely inadequate, ad hoc, and displayed the absence of a uniform and reliable system of response, referral and follow-through to ensure corroborated abuses were addressed and corrected.

Allegations of serious inmate abuses at the High Desert State Prison BMU were described in a letter dated June of 2007 from a citizen named Brandy Frye. (Attachment A.) Attached to the letter were several handwritten letters from inmates in the BMU alleging incidents of abuse and staff misconduct. (Attachment B.) In a letter from a special agent with the department's Office of Internal Affairs dated June 19, 2007, Ms. Frye was informed that her letter had been forwarded to the warden at High Desert "for his review," and that the warden or his designee would "evaluate the complaint and determine whether the issue is supervisory in nature, if an investigation is required, or if a written response to (Ms. Frye) will suffice." (Attachment C.)

On July 17, 2007 the chief deputy warden at High Desert wrote Ms. Frye that, "(i)n investigating your allegations, it has been determined that HDSP staff is following the policies of CDCR. If staff misconduct is discovered during the inquiry, the appropriate corrective action will be taken. However, you will not be informed of the results of the inquiry or the nature of the corrective action taken." (Attachment D.) However, in an interview with Senate staff, the former warden at High Desert stated that the prison did not investigate the allegations on the Frye letter. He explained that, as a result of the *Madrid* case, the prison no longer conducted its own internal investigations, that they had to be referred to the Office of Internal Affairs. Thus, the correspondence issued by the department in response to the Frye complaints – both by Internal Affairs and by High Desert – appears to imply a level of substantive investigation and response that may not have occurred.

At our request, your department provided Senate staff with approximately 24 “602” grievances from inmates in the BMU at High Desert. Our staff’s review indicates that most of these complaints initially were denied, as were their subsequent appeals; it appears that two of the 24 appeals were partially granted. In the letter noted above, the chief deputy warden at High Desert stated that “many of the allegations . . . have been investigated via the appeals process.” Our staff’s review indicates that some of the more serious allegations raised by Ms. Frye – such as prolonged periods of inmates being handcuffed, or being detained in the snow inadequately clothed – were not raised in inmate 602 filings. We have received no documentation from the department or otherwise indicating that these allegations, as well as other related complaints about conditions and treatment in the BMU, were reviewed and investigated by the department at the time they were made.

Interviews conducted by Senate staff and related documents indicate that in July of 2007 the chair of the Inmate Family Council for High Desert State Prison provided information about alleged BMU inmate abuses to the department’s then-Associate Director for High Security and Transitional Housing for the Division of Adult Institutions. (Attachment E.) A memo dated July 25, 2007 from a correctional captain to the associate director described the department’s apparent response to these allegations. The memo states in part:

During our recent audit at High Desert State Prison (HDSP), we observed operations in the Behavior Modification Unit (BMU). This additional review was prompted by numerous complaints from the inmates participating in this program. . . . From our observations, HDSP is in compliance with all of the guidelines and policies contained in the orientation booklet and Administrative Bulletin 05/02, including those relative to the complaint issues.

The memo enumerates the following subjects of review: how much time BMU inmates were allowed for feeding; clothing issued and laundry process; ethnic breakdown of inmates; access to the law library; how inmate behavior is monitored and documented; and how inmates are graduated from one phase to the next. This review apparently did not address other complaints raised about conditions in the BMU, including allegations that inmates had been shackled in the snow improperly clothed; were being fed from carts contaminated with bird feces; were receiving the wrong medications or medication dosages; and were subject to excessive force.

Two department researchers informed Senate staff that they made multiple efforts beginning in July 2007 to report alleged abuses relayed to them by BMU inmates in the context of interviews conducted as part of a research assignment. These allegations generally were published in Appendix I of, *Evaluation of the Behavior Modification Unit Pilot Program at High Desert State Prison*, dated July 2008. (Attachment F.) One researcher reported two meetings with a department undersecretary in the fall of 2007 describing these inmate allegations. The same person advised Senate staff of several other meetings with CDCR management personnel describing what had been related to them by inmates in the BMU. A second department researcher similarly described several attempts to relay information to CDCR management staff.

These researchers informed Senate staff that their efforts to report the inmate allegations were frustrated by some department supervisors, and apparently not pursued by other department management staff that they approached. In an email dated July 17, 2007, a research supervisor described the need to “hammer out some formal language” to document a policy for reporting observations that are “unusual, contrary to department policy or sound practice, or potentially harmful to persons, property or the department in general . . .”

In an email dated April 7, 2010 that discussed how to respond to a reporter’s questions about the BMU allegations, a department undersecretary noted the following when asked if anyone at High Desert investigated the allegations of abuse raised in the BMU research report described above:

Inmates have many ways to address their complaints: appeals, OIG, litigation, BSA, OIA, Ombudsman, etc. As stated above the complaints appear to be consistent with typical inmate complaints and *I do not think concerns raised to researchers would be natural method for us to address these stated concerns*. So maybe response is that individual complaints by BMU inmates would have been investigated through *traditional complaint processes* and that we are seeking information . . . to determine the extent of internal review or even to the extent that inmate's used the normal complaint process. (Emphasis added.)

(Attachment G.)

Interviews and documents clearly indicate that there is or at the time of these events was a gap in training, policies and practices with respect to how *all* CDCR employees are expected to communicate any information they have concerning abuse or misconduct in prison institutions. As indicated by the email quoted above, it appears the department may rely on "traditional complaint processes" which, arguably made evident by the incidents surrounding these circumstances, may be so rigid as to limit the ability of the department's leadership staff to become aware of improper, furtive prison activities or conditions. As noted above by a department official, there are several ways for inmates to file complaints. Confining the department to these "natural" or "traditional" means, however, could deprive you of important intelligence available through other sources. We would regard as axiomatic that observations made by *any* department employee in *any* work-related setting giving rise to concerns about inmate abuse or institutional safety ought to trigger a set of protocol-based actions designed to ensure a level of consistent and appropriate follow-through. Yet, that did not appear to occur in this case and, based upon this example, we are concerned that the department now operates without the benefit of a reliable accountability infrastructure.

We understand that there have been subsequent investigations by CDCR Internal Affairs on the allegations of inmate abuse, the allegations of a "cover-up" by CDCR officials, and two complaints of employment retaliation related to the abuse allegations.

We are also of the understanding that most, if not all, of the allegations resulted in findings of “not sustained,” but that some employee training and other remedial actions will be taken. We request that we be updated on the progress of these actions.

The Senate’s review of the circumstances that gave rise to the public scrutiny of conditions at the BMU at High Desert State Prison earlier this year highlights the importance of making sure that the department’s methods for handling reports of inmate abuse or staff misconduct are performing well. Every means by which the department receives information about prison conditions – whether formal or informal, or from an inmate, employee or member of the public – is a valuable opportunity for the department to ensure the integrity of its operations. Every observer ought to be regarded as an asset, and every supervisor ought to be empowered as a portal through which information about prison conditions will be shared, evaluated, investigated and addressed. Our review of the BMU allegations suggests the department would be well-served by a recalibration of how it handles complaint allegations, from intake through investigation and resolution. Towards this end, our inquiry leads us to recommend the following specific areas for your attention:

- the effectiveness of the existing 602 process (inmate complaints) in ensuring inmate complaints are addressed in an unbiased and validated manner that is swift, fair and reliable;
- employee training on the proper reporting of allegations of abuse or other misconduct, including supervisors;
- the effectiveness of the current approaches for assessing and investigating abuse allegations, including the specific duties to be performed by the Office of Internal Affairs and individual prisons and wardens; and
- ongoing methods employed to validate the effectiveness of all aspects of the department’s complaint investigation systems.

With respect to the Office of the Inspector General, in particular, we remain concerned that the OIG's processes for handling complaints relies too heavily on a misguided assumption that other processes within CDCR are effective in investigating and responding to complaints and allegations of misconduct. In fact, it is our view that an essential and basic function of the OIG is to provide an independent assessment of CDCR operations, and not rely on the very systems it is supposed to monitor. We have also been informed that the OIG's system of complaint intake and investigation may be inadequately staffed and poorly suited to provide effective oversight. We are concerned that such a scenario, if true, generally suggests a lack of prioritization and a misguided view of the proper functions and role of the OIG.

To this end, we will continue to assess these procedures with your cooperation. To begin, we request the OIG's immediate response to the following:

1. Provide statistics from January 1, 2010 to November 30, 2010 (or most recently compiled), showing the number and types of complaints received by intake and their dispensation. Statistics should break down what happens to complaints where 602s have been filed and where 602s have not been submitted. How many calls/letters were sent by inmates/wards/parolees, family members, and staff? How promptly do call/letters receive a response? Is there a backlog, how do you measure it, and what is it now? Does the OIG follow up to determine if a 602 was handled appropriately? Does the OIG regularly audit 602 records at the prisons to identify trends, recommend improvements, etc?
2. Provide copies of existing internal reports from January 1, 2010 to November 30, 2010 (or most recent report), showing the summary and disposition/status of complaints logged by the OIG. Who is contacted at CDCR to discuss the complaints (executives, supervisors, correctional staff, or public information officers)? How many complaints have led to an OIG inquiry (telephone call)? How many complaints have led to a full OIG investigation? What are the criteria for determining whether a full investigation should be initiated?

3. Please provide details on personnel in OIG intake unit. How many people work there, what are their titles, and what is their training/background? Please provide copies of the form letters used to respond to complaints. How much turn over has there been in the intake unit? Provide a detailed explanation of the inmate, family, and staff complaint processes, including what personnel processes the complaint and when.

4. Provide flow chart, manual, policy, etc. on how the intake unit works – how calls are handled, how they are processed. When were the current procedures put in writing? What procedures existed before this current one and when were they put in place? Have the written procedures been made available to CDCR, the Governor's Office, the Legislature, the Federal courts, and other stakeholders? Has any trend analysis been done on the kinds of complaints received, which prisons generate the highest complaints, etc?

The OIG is requested to provide responses to these questions no later than January 3, 2010. If the OIG needs assistance or clarification with respect to any of the questions, please contact Anthony Williams, Special Counsel to the Senate President pro Tempore, by email at [Anthony.Williams@sen.ca.gov](mailto:Anthony.Williams@sen.ca.gov) or by phone at 916-651-4170.

We appreciate that your departments face extraordinary challenges during these difficult times. In our view, strengthening how your departments intake and examine abuse allegations can greatly improve your ability to discover and, where called for, remedy conditions that remain below the correctional standards that protect the public, respect the rights of inmates and employees, ensure the integrity of the institution, and the uphold trust and confidence of all stakeholders. With this in mind, it is our hope that our review of the alleged BMU abuses and how they were handled provide you with constructive observations that will further your efforts to improve California's prison operations.

Sincerely,



**DARRELL STEINBERG**  
Senate President pro Tempore



**MARK LENO**  
Chair, Senate Committee on Public Safety



ATTACHMENT A  
Letter from Brandy Frye dated June 4<sup>th</sup>, 2007

Monday June 4th, 2007

Press Release

RECEIVED

JUN 6 2007

Office of the Attorney General


To whom it may concern,

The intentions of this letter are to inform the public of the excessive abuse, that's taking place at High Desert State Prison, located in Susanville, California. Within this prison there is a unit called the BMU (Behavioral Modification Unit), where the men are being abused. They are being stripped of all their personal property, but more importantly their being stripped of their dignity and self worth. Many men have had to resort to taking anti-psychotic drugs just to cope, now they walk around like zombies when their allowed out of their cells once every week. Some men are being given the wrong medications or wrong doses, that may interact with their other medications. Men have been physically forced out of their cell with heavy doses of pepper spray and excessive force, for not returning their food tray, in the allotted two (2) minute time frame they allow them to eat. Physically stripped naked, handcuffed, waist/leg shackled, physically and brutally beaten and then put back in the same cell they were extracted from. Without being allowed to rinse off the pepper spray they were drenched in during the cell extraction. Their food portions are way under dietary standards, as well as being served off of unclean carts that have bird feces on them. This is unsanitary to say the least and greatly unhealthy, this could cause major health problems as well as diseases. The men are not permitted outside for exercise. The only time they're allowed outside is for punishment. They were placed outside in the snow for two (2) hours for making too much noise. Some men were in boxers and shower shoes only. The warden [REDACTED] has been notified of this behavior on more than one occasion, yet nothing has been done to stop his employees from abusing these prisoners. Actually the abuse on the prisoners increased and so did the punishment. Now the men barely get to even come out of their cells. We as taxpayers are not paying these men

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to contribute to the abuse within these prison walls. We hire them to maintain a safe environment for all, prisoners and workers alike. I greatly encourage you to help in assisting these men in getting help, before something goes drastically wrong and the abuse ends in some ones life being taken. A lot of these men don't have family members to reach out to, to help them, so please be their voice!!!! Enclosed are several statements from actual prisoners, that are serving time in High Desert State Prisons BMU facility.

Thank You,  
Brandy Frye



**ATTACHMENT B**  
**Various Letters from Inmates (8 total)**

TO WHOM THIS MAY CONCERN

ALL INFO. CONF.

I ( [REDACTED] ) AM AN INMATE HERE AT HIGH DETENTION STATE PRISON. THE LETTER IS HERE IN TO INFORM YOU WE RECEIVED ONE OF THE MAIL DELIVERIES IN WHICH VIOLATIONS THAT HAS OCCURRED TO ME ( MY FORMER CELL-MATE ( [REDACTED] ) HERE AT B.M.U. ON APRIL 19TH, 1967 (NOT EVEN A MONTH AGO) ...

ON 4.19.67 AROUND 11:00 AM. A GROUP OF OFFICERS WERE ADVISED THAT THEY WERE TO ENTER D-5. A SECTION, UPON THEIR ENTRANCE, THE OFFICERS ENTERED THE FACILITY SURVEILLING A SECURITY CHECK THAT THE INMATES WERE TO BE CONFINED - AP. EXPORTED OUTSIDE ON THE CONCRETE YARD WHILE THE OFFICERS RETURN BACK IN SIDE THE BUILDING TO CONDUCT CELL-SEARCHES. WELL, ME & MY CELL-MATE WERE THE ONLY TWO (2) PEOPLE OUT OF THE ENTIRE "B.M.U" PROGRAM WHO WERE ONLY WEARING OUR T-SHIRTS, BOXERS & JUST UNLACE SHOES. UPON THE OFFICERS ARRIVAL, AFTER I WAS BEING SEARCHED OUT UNDER MY CELL-MATE WHO WERE TOLD THAT WE WERE GOING TO BE EXPORTED OUT INTO THE CONCRETE YARD. ME & MY CELL-MATE AGREED TO GO BECAUSE IT WAS SWARNING & WE DID NOT HAVE ADEQUATE CLOTHING ON FOR SUCH WEATHER CONDITIONS (HAT THE OTHER B.M.U. INMATES WERE ALLOWED TO WEAR. ME & MY CELL-MATE TOLD THE OFFICERS THAT THIS WAS A VIOLATION OF OUR 5TH AMENDMENT TO THE US CONSTITUTION TO BE FREE FROM BEING SUBJECT TO UNUSUAL PUNISHMENT. BECAUSE THE WEATHER WITHOUT THE RIGHT CLOTHING WOULD PUT US IN "IMMINENT DANGER". THE SURVEILLING OFFICERS THEN ASKED (AT [REDACTED] ) IF WE CAN RETURN BACK TO OUR CELL TO GET ON THE PROPER AMOUNT OF CLOTHING FOR SUCH WEATHER, BUT (AT [REDACTED] ) SAID "NO, THERE WILL BE ALRIGHT IN THE YARD" SO, AS OUR PROTEST CONTINUED WE WERE EXPORTED TO THE CONCRETE - YARD & HAD TO STAND OUT IN THE YARD WITH ONLY A T-SHIRT, BOXERS, UNLACE SHOES & A PAIR OF HEAVY SOLES. WE STAYED IN THE YARD FOR 1 1/2 HOUR TO TWO (2) HOURS....

THIS IS THE TRUTH OF WHAT HAPPENED THAT DAY. SEE WE AS INMATES WITH IN THE B.M.U. PROGRAM ARE VERY LIMITED TO ACCESS THE RIGHTS INFORMATION TO MAKE SUCH INDIVIDUAL REQUESTS ARE LIMITED TO REPOURCED; SO I AM HERE IN ATTEMPTS OF BRINGING OUT TO THE OUT-SIDE WORLD IN HOPES THAT SOMEONE WILL HELP AS WELL AS LEAD TO ONE OF THE MAIL DELIVERIES THAT ARE BROUGHT HAPPY US AS A WHOLE....

THANK YOU FOR ALL YOUR TIME; IF YOU FEEL THAT YOU WOULD BE ABLE TO HELP US IN KIND OF THE MAIL DELIV. BY ANY MEANS; PLEASE CONTACT ME AT:

[REDACTED]  
 P. O. BOX 30150  
 OVERLAND PARK, KS. 66107

Whom it may concern:

May 6<sup>th</sup> 2007

I'm currently residing at # [redacted] number of felonious acts are for all nationalities by the states can further. A few days ago a % named [redacted] asked him why we were on lockdown cause you're acting like bitches." We filed a 602 for his vulgar conduct, he accosted me further by saying "we don't have to handle it the bitches way, we can handle it the real way anytime and anywhere." I infact 602'ed % [redacted] Employee Misconduct per 3391 (A) of the title 15. Another incident happened on December 13<sup>th</sup> 2006. Nine inmate were handcuffed (All African-American) on the yard for an incident that had nothing to do with any of us. They left, is cuffed for approximately 6 to 7 hours straight. The cuffs were so tight it began to numb our hands, upon informing Lt. [redacted] I stated "They don't look so tight to me." So while sitting on the ground facing a wall with numb hand and arms pointed at [redacted] which I must remind you we had nothing to do with. The urge to use the restroom came upon me, I informed Lt. [redacted] and he simply stated "Don't let me stand in your way." I held it until I could no longer hold it, then I began to pull my shorts down (which was very difficult being as how I had on cuffs) and was forced to urinate in front of female employees onto the ground which caused Lt. [redacted] to laugh. Do you know how extremely violated I felt? I also 602'd that but they conveniently "misplaced" it and all the onds I rewrote. As of now I'm in a program that called B.M.U. (Behavior Modification Unit) which is an illegal program, it also hasn't been signed off by any higher authority to clear it as official. We have something in this program called Step 1, 2 and 3, every month you move up a step if you haven't received a 115. I ask Lt. [redacted] if I was going to Step 3, he stated "NO", when I informed him that I haven't received any write ups, he simply stated "in this program I'm god and I can do what I want." I've exhausted all of my remedies for help, so you are my 1st chance to fix this injustice. PLEASE HELP US!

Dear Reader:

This letter is meant to inform you of the severe violations of civil rights, constitutional rights, as well as God given rights, that are taking place at California's High Desert State Prison, managed by [redacted] Warden [redacted] [redacted] Sergeant [redacted] [redacted] (Convictional Officers [redacted] [redacted] [redacted] [redacted] This list is to attach reasons to the abuses that take place & inmates [redacted] [redacted] arrived at High Desert on 1-31-07. Since then I have been illegally processed into an "underground" program called BNU Worker - grounded because it has not been approved by the Office of Administrative Law (OAL) or the Administrative Procedures Act (APA). Allegedly because "staff" has referred to Rules violation Reports (RVR's) I received from the sending institution, which were revoked per Title 15 CCR 3379(c). The sending institution shall resolve any matters related to incomplete disciplinary punishment. Captain [redacted] has falsified documents in order to make it appear that I meet the criteria for the program. He then held the hearing without my being present violating my right to due process then to cover this up he continued to falsify documents stating I refused to be present, but in the same document he states that he held a verbal conversation with me at the hearing (all attached). He tells so many lies he forgets what lies go with what lies. Upon arrival to the BNU unit, facility D Building 5 & section I was physically forced into cell 202 with a documented program, despite the fact I told them I was not a "affiliate" because I was not a programmer nor am I documented as being one meaning "affiliate". This could of easily had to violence shortly after my arrival to the unit I experienced a cell extraction due to my inability to complete my evening meal in the allotted time "two minutes". This lead to a string of events that prompted [redacted] to assemble an extraction team which proceeded to empty a can of small pepper spray, approximately the size of a quart of milk, on to my face, neck, hand, back area then drag me out of the cell and alloted me a few splashes of water on my face and called it decontaminated even though I still had the same clothes on soaked with pepper spray. Then I was escorted down stairs where I was placed in a shower cell with the water supply turned off; stripped of all clothing, was then shackled and paraded, completely nude, across the dayroom (squad of 10 to 12 staff, male & female), then forced to walk up metal grated stairs barefoot back into the same cell they just drag me out of. Then left there for 2 days without bedding, toothpaste, or anything more than a pair of boxers & T-shirt. This is one of many situations where we are deprived minimum needs as a form of discipline. We have been put on food ration as a punishment as well, never do the food trays meet the same quantities as served to the general population (GP) nor is it consistent with the amounts listed. The messes also concerning our food, which is stacked on a food cart that is covered in (bin) due to the fact it is hardly ever cleaned. The filth consist of rotting food and bird feco matter from the two birds that dwell in building D5 A section. They not only defecate

5-9-07

To Whom it May Concern:

I am an inmate here at High Desert State prison. I feel it is my duty on behalf of all the tax paying Citizens Out there in the free world to inform you of the many injustices that takes place behind Society's Wall. Now I've been here at this prison for a year and a half and I have witnessed a high number of Negligence, Misconduct, Wanton behavior, Violations of Constitutional Rights, disrespect unwarranted, and Numerous Counts of discrimination to name a few.

For instance I myself and my Cellmate have been victims of these acts. Currently were in a specialized and segregated housing unit, also known as the (B.M.U) Behavior Management unit. However this "Program" isn't promulgated into the Corrections Regulations Title 15 therefore is legally invalid. Now in this "program" there is a majority of Black inmates who never go out side, barely get out of Cell time, never leave the pod unless escorted, never get cleaning supplies, our food is under Rationed "Extremely" where not in (ad-seg) Administrative Segregation, but we are indeed segregated, separated, and isolated. The inmates are forced to eat every meal in a dining room every day and if we complain, the staff are being hostile and to give the food tray being hostile and in disciplinary actions. My Cellmate is in disciplinary actions and the results ended in a Cell extract, pepper sprayed, Me and his property and personal belongings were removed from the Cell and the Cell was not properly decontaminated, we were choking and coughing all night, plus my Cell was not properly decontaminated. The officer stopped the tape, and had my Cellmate in the day room naked and in chains for 20 minutes. I never get sprayed nor did I have the problem, but yet my personal belongings and have




~~CONFIDENTIAL~~ D5-1074 BMU High Desert State Prison, Susanville CA.

Here in B.M.U. is a female c/o called Ms [REDACTED] she has made BMU a living hell for me. When I first arrived to this program I did not get a fish kit and or any clouse it took me about 2 weeks to get a fish kit and about 2 months to get clouse. I been here since 1/4/2007 today's Date is 5/6/07 I been to yard 6 times.

Ms [REDACTED] through all my property away, she hands out our food with out a kitchen hat. I have got her haer 2 times I live next to the shower and it smells bad, I tell clo's to let me clean it but they dont care. I was called to see my counselor [REDACTED] on 5-2-07 he told me theres a death in your family!, and did not let me talk to my love one did not give me a phone call. A clo give every one in BMU a 115 for kicking on door and yelling, I dont belive every one is guilty Im not guilty but here I am an extra 30 days. Out of all this time in BMU I been to the library 6 times. My counselor do not want to give me a old some review and I need copy's of my central file,

## High Desert State Prison



May 7, 2007

Dear Reader:

Myself and 26 other detainee's here in High Desert State Prison have been kidnapped from the "General Population Setting" and displaced in a secret and isolated section of the prison on Facility D-5 building A-section, where at, we remain the prime focus and current subjects under going a illegal experiment here in a Behavioral Modification Unit. Every single captive I've spoken with have one thing in common. Staff have knowingly and intentionally falsified documents known as Rules Violation Report (RVR) and found us guilty of those falsified report(s), there by deeming us Program Failures which in turn made us eligible for this "closed door" experiment.

Imagine if you will, the Warden, Captains, Lieutenants, Sergeants, Correctional Officers, Classification counselors and committee members all working "in concert" to conduct a esoteric study on inmates entitled the Pilot Program... by the way, which have not been approved by the Administration Procedure

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High Desert State Prison

[REDACTED]

Pg. 2.

May 7, 2007

Act and or California Correction Rules (CCR) Title 15. It is beyond cavil that this experiment exist. Never the less, High Desert "organized crime members" have and continue to make and break rules and laws as they deem fit. Surely that is against the law, but simultaneously the norm for officials that are left to supervise themselves. The subjects that have been forcefully enlisted in the "unlawful" and "illegal" Pilot Program are struggling to maintain their sanity. With no constitutional rights and or rights to have a right some victim's of this experiment contemplates suicide, while other's give in to the "brain-washing" teachings of [REDACTED] the facilitator who has been authorized by Captain [REDACTED] to use the power of psycho-logical coercion to manipulate us away from the text book rules and regulations of the California Department of Correction and Rehabilitation as well as our Human Rights and Constitutional guarantee's. This is Organized Crime at its best. and a experiment gone wrong at its worse. Most victim's of the Pilot Program

High Desert State Prison

[REDACTED]

Pg. 3.

May 7, 2007

know better, want better, and even desire all the positive attributes that constitutes these qualities, but we all know, without effort of some practical application, these qualities will not materialize.

Wrong rules set and ordered by Captain [REDACTED] is promoted as a quality that misrepresents the truth, and what's really good. By distorting the real rules and regulations that builds the moral fiber of the rehabilitation incentive plan... is surely mean spirited and contribute to unnecessary negativity.

Every single inmate subjected to Captain [REDACTED] Pilot Program have suffered irreparable damages and loses, Due to Captain [REDACTED] "under-ground" and "illegal property policy." Note: Per CCR Title 15 3044 (F), and 3190 (2) are the legal authority for Privilege Group "C" property allowance and possession. Also article 43 of the DOM details the specific amount of allowable property for Privilege Group "C" inmates. A complete examination and comparison to BMU inmate orientation booklet will reveal that the Authorized Property

High Desert State Prison  
[REDACTED]

Pg. 4.

May 7, 2007

enlisted on page 6 is definitely invalid and serves no legitimate authority as a rule that has been dual-ly promulgated by the A.P.A. and CCR Title 15 codification. Therefore, Captain [REDACTED] policy merit no weight as a agency interpretation.

The aforementioned is only one of many issues that constitute the violations of two dozen and more inmates by one Captain decisions. We are hopeful that this informative news sparks the interest of concerned parties who are willing to aid and abet us in the struggle to eliminate under-ground policies and co-vert tactic's discretely performed by criminal minded officials hiding behind the cloak of honor.

Respectfully,

[REDACTED]

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Enclosure: H.D.S.P. Behavior Modification Unit Inmate  
Orientation Booklet General Rules and Procedures

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[REDACTED]  
High Desert State Prison  
P.O. Box 3030  
Susanville, California, 96130

In this letter you will read about several incidents that are happening to me at two (2) California Prisons (1) Corcoran State Prison - Corcoran, and (2) High Desert State Prison, Susanville, California.

Because of these incidents you can advise the Director of the California Department of Corrections, several staff members in Sacramento California for trying to cover up and conceal these violations of the law at the two (2) prisons. I will be stating names but you can believe there are alot more people involve in these conspiracies. But after you read this letter. I want you to have the FBI or the U.S. Marshalls to remove me and my property to the federal institution a few miles from here for the following reasons (1) I want the federal institutions medical staff to re-evaluate and give treatment and/or medications for serious multiple medical problems that are in violation of Plata v. Spurner, State and federal laws which protect prisoners in the state of California, (2) and because I am a Tupia-Ci psycho patient I also want the psychiatric department to re-evaluate me for depression and insomnia cause from years chronic and severe pain. Because of tactics which this medical staff has done so I would stop taking my medication. I want you to understand that medical staff has to use methods of altering, stop and start medications when an inmate files serious complaints against them or this prison as I have done.

I have filed two inmate appeal forms (complaints) against these two (2) prisons because of these serious multiple medical problems and because there has been two (2) attempts on my life. One of those charges is attempted murder by [REDACTED] for illegally

Stopping my medication for Diabetes and a M.T.A. You see, for not reporting the incident. The other is because M.T.A's on 2nd and 3rd etc. for intent to cause harm by withholding my "High Blood Pressure" pill medication 4 to 5 days longer than necessary! Also Sam CORMS and I suffer depression and insomnia because of the type pain which I deal with on a daily basis, some days are good, most days are very bad! Again because of the tactics I go through, with this medical staff one of them went through all the trouble to change some of the ingredients in the capsules of my psychiatric medication which I have told them repeatedly that I can not take, so now Sam not taking my psyche meds. These medications which I can not take are; aspirin, motrin, ibuprofen, naproxen, vicor, celebrex and over the counter pain medications. I have medical records on the streets to prove that also. And between April 21-23, 2007 is when that change was done I already have stomach problems and I have already express that I fear for my life here!

Because of the nature of the complaints I have filed this has gone to great extent to extra paperwork, and great lengths lie conceal the truth. For one reason the old inmate appeal forms I have been stopped because I have asked the Appeals Coordinators a Dr. [redacted] and a [redacted] for photocopies and send back to me the wrong due dates and no written reasons why these appeals are being delayed. Here are filed dates, the log numbers and due dates on the following Appeals forms:

1-25-07	HDSP-C-07-00443	3-7-07
2-20-07	HDSP-D-07-00728	3-22-07
2-27-07	HDSP-D-07-00886	4-9-07

There are also two (2) outside organizations which I have contacted: (1) California Prison Forum, 2940 16th Street, Suite 65, San Francisco, Ca. 94123. Phone: (415) 252-9211. Fax: (415) 252-9311, contact [redacted], 1415W and (2) The Prison Law Office, General Salinas, San Quentin, Ca. 94964-0001, Phone: (415) 457-9144. Fax: (415) 457-9157, contact [redacted] Litigation Assistant under [redacted]. They got bid to all the time.

I have a memorandum from the Prison Law Office that is dated: March 27, 2007, that was also sent to the following persons:

Jonathan A. Welff  
Supervising Deputy Attorney General  
State of California Department of Justice

TO WHOM IT MAY CONCERN,  
I AM AN INMATE CURRENTLY LOCATED HERE AT HIGH  
DESERT STATE PRISON, AND THIS IS A LETTER TO  
REPOSE THE VARIOUS AND EXTENSIVE VIOLATIONS OF  
CDCR POLICIES AND GUIDELINES THAT HIGH DESERT  
STATE PRISON STAFF AND OFFICIALS ARE CURRENTLY  
IMPOSING ON ALL CURRENT BMD INMATES.

THIS BMD (BEHAVIOR MANAGEMENT UNIT) IS  
SUPPOSED TO BE A PROGRAM TO HELP INMATES  
OVERCOME ~~AGGRESSIVE~~ ATTITUDE AND BEHAVIOR  
PROBLEMS ASSOCIATED WITH ANGER ISSUES. BUT  
SINCE I HAVE PERSONALLY BEEN ISOLATED AND  
HOUSED HERE, NO SUCH HELP HAS BEEN MINISTERED  
TO ME OR DO I NOTICE OTHER FELLOW BMD INMATES  
RECEIVING BENEFICIAL HELP.

I'VE PERSONALLY BEEN ANTAGONIZED BY BMD  
FLOOR STAFF AND SGTs. MY PERSONAL PROPERTY HAS  
BEEN FORCED TO BE SENT HOME OR THREATS OF  
DESTROYING MY PERSONAL PROPERTY HAS BEEN ENFORCED.  
MAIL IS BEING WITHHELD AND OUT OF CELL TIME HAS BEEN  
REMOVED. I'VE ATTEMPTED TO DO THIS PROGRAM BUT  
BMD FLOOR OFFICER [REDACTED]  
ALL UNDER THE SUPERVISION OF BMD SGT [REDACTED]  
HAVE CONTINUED TO SHOW DISRESPECT AND DISREGARD  
FOR MY PERSONAL PROPERTY, MY RIGHTS, AND ALSO THE  
RULES AND REGULATIONS OF CDCR WHEN IT CONCERNS  
FAIR AND EQUAL TREATMENT OF ALL INMATES. MY  
RESOURCES ARE LIMITED, SO I'M REACHING OUT TO  
THE OUTSIDE WORLD IN GOD'S FAITH THAT SOMETHING WILL  
BE DONE. PLEASE HELP.

I, [REDACTED] DECLARE ALL OF  
[REDACTED] SIGNATURE



ATTACHMENT C  
Letter from S.A. Wells to B. Frye dated June 19, 2007

## OFFICE OF INTERNAL AFFAIRS

Headquarters Office  
P.O. Box 3009  
Sacramento, CA 95812



June 19, 2007

B. Frye  
3208 2<sup>nd</sup> Ave, #4  
Sacramento, CA 95817

Dear Ms. Frye:

The California Department of Corrections and Rehabilitation (CDCR), Office of Internal Affairs (OIA) is in receipt of your correspondence regarding alleged abuses towards inmates housed in the Behavioral Modification Unit (BMU) located at High Desert State Prison (HDSP).

On June 19, 2007, I forwarded your complaint to HDSP Warden Tom Felker for his review. Warden Felker or his designee will evaluate the complaint and determine whether the issue is supervisory in nature, if an investigation is required, or if a written response to you will suffice.

If you have any further questions regarding your concerns regarding this matter, please contact the HDSP Public Information Officer at (530-251-5001) or you may contact George Giurbino, Associate Director, Division of Adult Institutions, General Population, High Security and Transitional Housing, at 1515 "S" Street, Room 344N, Sacramento, CA 95814.

Thank you for bringing this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "William Wells".

WILLIAM WELLS  
Special Agent  
Office of Internal Affairs - Headquarters

ATTACHMENT D

Letter from M. McDonald, Chief Deputy Warden, to B. Frye dated July 17, 2007

D 133

**VISION OF ADULT INSTITUTIONS**

High Desert State Prison  
P. O. Box 750  
Sunnyvale, CA 96127-0750



July 17, 2007

Brandy Frye  
[REDACTED]

**COMPLAINTS REGARDING THE BEHAVIORAL MODIFICATION UNIT**


Dear Ms. Frye:

This correspondence is in response to your letter that was submitted to the California Department of Corrections and Rehabilitation (CDCR) Office of Internal Affairs (OIA). In your letter you allege numerous acts of staff misconduct on behalf of several inmates housed in the Behavior Modification Unit (BMU) at High Desert State Prison (HDSP). Also enclosed with your letter were copies of complaints from numerous inmates housed in the HDSP BMU.

All allegations of staff misconduct are taken seriously and many of the allegations you speak of in your letter have been investigated via the appeals process. In investigating your allegations, it has been determined that HDSP staff is following the policies of CDCR. If staff misconduct is discovered during the inquiry, the appropriate corrective action will be taken. However, you will not be informed of the results of the inquiry or the nature of the corrective action taken.

It is my sincerest hope that this information has been of some help to you in answering your questions, in a general format, due to the sensitivity of the issues being addressed. If you have any additional questions regarding these issues, please contact C. Bolls, Administrative Assistant at 530-251-5501.

Sincerely,

  
M. D. McDONALD  
Chief Deputy Warden

**MAILED**  
11/10/07

ATTACHMENT E  
Letter from G. Giurbino to Sen. Steinberg dated August 16, 2010

**DIVISION OF ADULT INSTITUTIONS**

P.O. Box 942883  
Sacramento, CA 94283-0001



August 16, 2010

The Honorable Darrell Steinberg  
President Pro Tempore  
State Capitol, Room 400  
Sacramento, CA 95814

Attention Nettie Sabelhaus

Dear Senator Steinberg:

Enclosed for your consideration are my responses to the questions provided in preparation for my Senate confirmation hearing scheduled on August 25, 2010, for Director, Division of Adult Institutions, for the California Department of Corrections and Rehabilitation.

Additionally, per your request, a copy of my Form 700, Statement of Economic Interest dated August 16, 2010, is also enclosed.

Should you or your staff have any additional questions, please call me at (916) 322-6081.

Sincerely,

A handwritten signature in black ink that reads "George J. Giurbino".

GEORGE J. GIURBINO

Director  
Division of Adult Institutions

Enclosures

Senate Confirmation  
George J. Giurbino, Director  
Division of Adult Institutions  
California Department of Corrections and Rehabilitation

**Statement of Goals**

*The director provides leadership, management, and oversight for the state's adult prisons. As part of the management team for CDCR, the director also collaborates with all divisions responsible for programs, such as education and juvenile justice. As with the entire agency, the director is facing how to manage the system in a time of limited funds.*

*CDCR is responsible for incarcerating about 169,000 adults in 33 institutions and 40 fire camps and other facilities, and 1,500 juveniles. The department manages another 109,000 adult parolees, as of December 30, 2009, and 1,663 juvenile parolees in state and 42 out of state. The stated mission of the department is to improve public safety through evidence-based crime prevention and recidivism-reduction strategies. When you were confirmed as associate director of High Security and Transitional Housing Units in 2007, you said your role was "to provide the leadership, the oversight, courage and motivation for our mission to manage safe institutions and create and provide rehabilitation services to our offender population in both a safe and secure living environment."*

- 1. Please provide us with a brief statement of your goals as director. What do you hope to accomplish during your tenure? How will you measure your success?**

As the Director of the Division of Adult Institutions (DAI) my primary focus and goals will be to further enhance and maintain public safety and confidence through the operation of safe, secure and productive correctional environments within the adult institutions and camps. Based upon the fiscal crisis that have significantly impacted the nation and all areas of state government, it is understood that these efforts will need to refocus on the fundamental nuts and bolts of operational security and regular monitoring of resource efficiency. It is further recognized that both innovative collaborative efforts will need to be considered and established to provide for rehabilitative and/or productive activities and programs for our inmate population.

I believe that our Department has made many strides during the past ten years; however, based upon the public and political nature of our work environment, sometimes our efforts becomes lost in the fog of fiscal limitations and press/media headlines. To this extent, I intend to provide the type of open effective leadership to instill public confidence in our institutions' operations, together with constructive labor relations to interact most effectively with our dynamic employee culture.

inmates that successfully completed the BMU program during the initial 90-day placement.

**17. Why was the program at High Desert discontinued? What role did you play in its discontinuance and CDCR's inquiry following the news reports?**

As I identified in question 16, the BMU at HDSP was activated as part of a CDCR pilot program, which was intended for participation by inmates who were deemed a program failure, who participated in organized criminal activity (gang activity), who refused to participate in integrated housing (*Johnson v California*), who refused to double cell, and those released from ASU or SHU. The pilot was designed to run for two years, from November 21, 2005 through November 21, 2007.

The information provided by the institution and available from documented research reflects that the pilot program essentially encompassed the two-year parameter of the established pilot as identified within the corresponding Administrative Bulletin. Reviews and feedback received from the Warden and staff who managed the BMU at HDSP reported that although the resulting data from the pilot appeared promising, their experience identified a critical need for additional custody staffing positions to compliment the need associated with providing all activities and services associated with the program. In addition, information received from other institutions managing BMU programs provided a recommendation that property should not be mailed home upon an inmate's placement within a BMU, but rather should be retained and used as a program incentive for reissuance upon an inmate's successful completion of the BMU within the guidelines of the original 90-day placement assignment. The CDCR essentially adopted this change in policy related to the retention and reissuance of property to inmates upon their successful completion.

HDSP, as with other CDCR institutions with pilot BMU programs, were initially informed that they would receive an education instructor position authority to complement and facilitate the programs with the BMU; however, due to budget constraints these necessary positions never materialized. I and other staff within DAI at headquarters moved forward in establishing a BCP to request additional personnel resources for additional custody coverage within the BMU programs, as well as requesting for a specific allocation to provide education instructor positions for the education/training portion of the program. However, based upon a fiscal crisis in the State and a Department requisite for a realignment of fiscal priorities, the additional position authority was never approved. HDSP and other institutions were not mandated to continue their operations without the provision of additional resources, but were advised that they could continue to operate their BMU operations if the institutions could facilitate an internal redirection of staffing to complement their existing programs. The Warden and management team at HDSP elected to discontinue the pilot program at HDSP based upon the lack of additional personnel resources deemed critical for the long term success of the program locally. The inmates that were assigned to the BMU



at HDSP were ultimately released to GP through attrition during the final 90 days of the pilot program.

Directly following the publication of a newspaper series on allegation of employee misconduct at HDSP, I initiated a timely tour of the two remaining institutions in the state at SATF and Calipatria State Prison. During these tours, I also requested that the AD of the Level III/IV mission, Mr. William "Joe" Sullivan, attend the tours with me. In advance of the tours, I requested the two institutions and the DAI Classification Services Unit to pull together a package of oversight information to assist in our review of the two BMU programs. General parameters of the two tours included the following:

- Review of local BMU OP;
- Review BMU Yard Schedule;
- Random C-file review and assessment, 10 random C-files (or all if less than 10 inmates) of current BMU inmates for our review;
- Call Sheets for Classification actions within the BMU for the last 90 days for our review;
- Appeals Coordinator to compile a list and/or copy of any BMU appeals received/responded to during last 12 Months;
- A list of incidents and use of force occurrences (837s) that have occurred in the BMU during the last 12 Months;
- Private meeting with five random inmates;
- Cell-front tour of all inmates assigned to the BMU program(s).

On Friday, May 14, 2010, I spent a day at SATF reviewing documentation and conducting a tour of the BMU with the Warden. We found the BMU operations to be clean, organized and quiet during the tour, and the present staff demonstrated a good working knowledge of the local BMU procedure. I observed at SATF that, because of previously addressed fiscal constraints, the BMU was operating without sufficient resources to fully provide for the training/education components of the BMU. In addition, the institution appeared to be operating on a misconception that all inmates completing a SHU term were "required" to process through the BMU before returning to the GP. The assigned inmates expressed they experienced/witnessed no abuses within the BMU; however, they voiced concerns about the program, and the requisite for all inmates completing a SHU term to be required to complete a subsequent BMU program. The criteria has since been clarified with the Warden and management team at SATF, and a program sponsor has been identified to facilitate the education and training program within the BMU at SATF. Additionally, efforts are in process to create an education model within DEVOP's current structure to provide an instructor to further facilitate what appeared otherwise to be an effect program at the institution.

On Monday May 17, 2010, Mr. Sullivan and I traveled to Calipatria, and used the day for reviewing documentation and conducting a tour of the BMU with the Warden. Again at Calipatria, the BMU operations were found to be clean, organized and quiet during the tour, and the present staff seemed to have a good working knowledge of the local BMU procedure; however, the staff expressed that based upon the recent change in education models and limited resources, the institution was not providing any type of formal/informal education or training program. It also appeared that staff at Calipatria were using the BMU, to a large extent, to manage inmates with a history of possessing cellular telephones, which does not truly correlate with the base criteria for BMU assignment. Also at Calipatria, the BMU operated as a non-privilege housing unit, where the inmates were being required to mail their televisions and property home upon placement in the program. The assigned inmates expressed they neither experienced nor witnessed abuses by staff within the BMU; however, they voiced concerns about the program, and the requisite for all inmates to send their property home upon placement within the BMU. The criteria has since been clarified with the Warden and management team at Calipatria; however, based upon a continued lack of authorized resources or volunteer sponsors, I have elected to suspend the program at Calipatria until further notice. Information was shared with the management team that efforts are in process to create an education model within DEVOP's current structure to hopefully provide an instructor position in advance of any future consideration to reestablish a BMU Program at Calipatria.

I have interacted with some members of the IFC (local and statewide) regarding the information provided within the news articles, and advised that each of the allegations presented are currently under formal investigation.

The chairperson of the HDSP IFC had previously contacted me during July 2007, expressing general concerns about processes and issues within the HDSP, as presented to her by inmates assigned to HDSP and their respective family members. The general issues addressed at that time pertained to:

- Feeding: how much time are the inmates afforded to complete their meals?
- Clothing: what are the inmates issued and what is the laundry process?
- What is the ethnic breakdown within the BMU?
- Law Library: are the inmates afforded access to the Law Library?
- How is inmate behavior monitored and documented?
- How are decisions made to graduate from one phase to the next?

Upon receipt of the issues, I had each of the areas reviewed by headquarters auditing staff during a previously planned audit of HDSP. On July 25, 2007, I received feedback from the reviewer regarding these issues, which essentially provided insight that

appropriate procedures and practices were observed to be in place within the BMU. I subsequently shared the results of this review with the chairperson at HDSP and advised her that I would be open to further review on additional issues that may arise. In the three months that followed this assessment at HDSP, the timeframe associated with the pilot project concluded, and the Warden elected not to move forward with further implementation of the BMU based upon the lack of sufficient and necessary personnel resources.

## **Contraband**

*You previously told the Rules Committee, "The control and management of contraband within our institutions is probably one of our greatest concerns, and the concern for our rank and file and supervisory staff that are managing our institutions daily." You added that CDCR viewed cell phones "as a threat to our operations." In the past three years, the number of cell phones recovered by CDCR has grown from 992 in 2007, to 6,995 in 2009. Federal legislation to allow signal jamming appears to have stalled in Congress.*

**18. Why have the number of confiscated phones increased, despite efforts to crack down on offenders? What new strategies can CDCR develop to reduce the flow of phones into prisons? How do you evaluate the danger these phones pose to prison staff and the public?**

Inmate possession of wireless communication devices within State prisons and correctional facilities allows unrestricted means for these inmates to continue perpetrating felonious activities against the citizens of California. Inmates can facilitate criminal/unauthorized enterprises, compromise institution safety and security, and exert their negative influence in the outside world despite being incarcerated in a State prison. The incidences, use and subsequent discoveries of cellular telephones and similar electronic communication devices within correctional institutions have expanded significantly over the past three to five years.

During the past three years, the number of cellular telephones and wireless communication devices found in the possession of inmates, strategically concealed but easily accessible, or intercepted and confiscated prior to introduction within the institutions' security perimeter has increased dramatically. During the three year period of 2006 through 2008, 4,064 cellular phones were discovered and confiscated at the 33 adult institutions.

During calendar year 2009, approximately 7,000 cellular telephone discoveries were made on State prison grounds, and current data suggests that this number will grow to exceed 10,000 by year's end.

The increase in discoveries of cellular telephones within state prisons is based upon several interrelated factors, including a stepped-up effort by CDCR to detect contraband

**ATTACHMENT F**

**CDCR Adult Research Branch, "Evaluation of the Behavior Modification Unit Pilot Program at High Desert State Prison, Appendix I: Summary of BMU Inmate Interviews"**

## APPENDIX I

### **Summary of BMU Inmate Interviews**

#### ***Reason for BMU assignment and perception of fairness***

Most of the six inmates interviewed had been at HDSP less than six months, although one had been there for considerably longer. The specific reasons the inmates gave for being placed in the BMU ranged from too many generic Rules Violation Reports (115s) to refusing a cellmate. Several inmates claimed that they were sent from another prison directly to the BMU as punishment. Among the comments that they made regarding the perceived unfairness of their placement in the BMU are the following:

- Not justified.
- I shouldn't be here.
- 115s were based on lies made up against me.
- I got sent here because of an incident that involved 30 guys, but only 6 of us – all Black – were sent to the BMU.
- I shouldn't be here. They say the bulletin allows what they are doing, but it doesn't. There are no regulations or program rules. Any time you show any resistance to staff, they come down on you – charging you with things like delaying a peace officer – because you asked for a laundry basket.

#### ***Inmates' descriptions of their BMU experience***

Two of the inmates spoke well of the workbook curriculum and the instructor. Others indicated that they spent much of their time reading or working on legal appeals. However, each of those interviewed gave the research staff many negative descriptions of their treatment in the BMU. Some of the accounts are rather typical prisoner complaints; others are serious allegations of mistreatment. The complaints that may be considered typical involve both minor complaints related to being incarcerated and those that allege flaws in programming and prison management:

- No programs, like AA, NA, which are on the main line.
- Deprivation and loneliness.
- It's Bullc\_\_p. If it were fixed it could be helpful.
- Day room in BMU is dirty. Sanitation: walls are not cleaned. And inmates are reluctant to clean because there is no reward.
- They take recreational clothing (jumpsuit and socks), hygiene stuff, and books.
- Shouldn't send property home, already punished by coming here.
- Doing CDCR a favor by accepting a celli. Not having a celli is best for me, because I get frustrated.
- It's hard to get a job. Half-time inmates get jobs as first priority, and there are a limited number of jobs.
- Illegal – program is punishment. Gain from workbook. Guards don't respect the inmates.
- They don't allow us to grow here. The officers often bite into a confrontation with the officers.
- ASU inmates should not be mixed with BMU inmates.
- The floor is dirty. They have left a bird flying around and sh\_\_ting on everything. There is food on the walls by the stairs, and it's been there for 5 months. They never clean the trays. The kitchen people don't wear hairnets – we are the dirty little secret.
- Some inmates kept in here 13 to 16 months even when they refuse to program.

- They never clean our tray slot, and they refuse to let us clean our toilets. They say supplies are out, or they say they are against regulations. We write it up, but it disappears.

Although we were unable to verify them, some of the allegations went well beyond typical prisoner complaints. Some involved racial issues, and others involved what would appear to be serious constitutional issues:

- Want programs, religious services, yard time, and more access to Law Library.
- I just wanted to program and go home. I would write 602s, but they block them – they delay our 602's. They keep asking me to make changes on my 602s and this ends up delaying it so the appeal time runs out, and it's too late.
- There was this time when we had been kept from the day room and canteen. A lot of inmates started kicking their doors. Not all, because some are sick and can barely walk. But we were all punished. We were taken outside and made to stand in the snow for over 2 hours. Some guys were only in boxers and socks. The guard, who was supposed to be in the tower, wrote 115s for all of us. But he couldn't have seen all of us kicking. He admitted he didn't see it, but he said he did what he was told to do.
- And out of the 28 in here, 22 are black, and the rest are Latinos. There is racism here.
- No yard or religious services, and restricted Law Library access. No other services are available that can be found on the main line.
- No, because of no access to yard, jobs, religious services, and limited access to Law Library.
- Lack of access to religious services, except for occasional visits by volunteers.
- Inconsistent assignment of inmates to BMU (case conference irrelevant).
- Grievances (602s) not handled in a timely manner (staff hold them up, ask for corrections, then hold them up again before asking for additional corrections and by that time it is too late to submit them – must be submitted within 15 days of an incident).
- Personal, irreplaceable family items taken and not returned after cell searches (items were not contraband).
- BMU is harsher than ASU (lose property when assigned to BMU, but not ASU); inmates assault staff to go to the less strict environment of ASU.
- Inadequate time to eat (approximately 5 minutes – if inmates try to keep tray longer, they are written up).
- Inmates are not given 1 hour of out-of-cell exercise time each day (or even 5 hours per week; some have had as little as 3 hours over several months).
- Entire group punished by being forced to stand in the snow for 2 hours (some with only boxers and socks). Medicines and medical equipment prescribed by medical personnel withheld.
- Mail sometimes withheld or tampered with; outgoing mail sometimes does not get out.
- Facility is dirty (including bird droppings from a sparrow that has been in the unit for 2 months; bird droppings get on food trays at times).
- No law clerk in the law library; have to use computers to access law rather than books.
- Use of "underground regulations."
- Inmates not given a written copy of the BMU rules and regulations.
- Do not always decontaminate inmates after gassing.

### ***Perceptions of safety.***

Some of those interviewed said that they don't feel safe anywhere at HDSP. Several others indicated that they felt safe as long as they did not have a cellmate, but that their insistence on

having a single cell got them to the BMU. Inmates spoke of fearing for their health, indicating that medical records did not follow them and those necessary medical devices and medicines were taken away. Several inmates described an incident when staff left one inmate on the floor with rectal bleeding and refused to take him to get medical attention.

- Another thing that happened was when they responded to a medical emergency – an inmate was bleeding from his rectum and they sent all these officers over here... When they got to his cell they said “It’s the f\_\_\_ing N\_\_\_\_\_ again, let him die.” And they left him there.
- Inadequate medical attention (delays of several days for serious medical problems).
- Lack of facilities for physical handicaps (such as no handicap showers).
- I was on psych meds, and they bring them when they feel like it.

### ***Treatment versus punishment***

Although some inmates indicated that the BMU involved some treatment, all inmates who were interviewed indicated that they believed the program was mostly or all about punishment:

- Everything is deprived. No opportunity for rehabilitation services. No access to services and jobs.
- Inmates are made to clear sections, as a porter, but there are no rewards to do job. It’s supposed to be the COs job to clean, unless an inmate is given privilege. I’d be more willing to program if they didn’t take stuff.
- Basically punishment because you can do steps without doing curriculum, but it’s the only relevant treatment, since it helps cope with anger.
- Just the curriculum. No school. No job training/vocation.
- It should be about treatment, but now there is no motivation to program for those placed in BMU.
- Nothing like treatment or real education. Some can’t read, and there is no attempt to change literacy/no effort at all.
- Some believe it’s worthless – and I guess I would say it is too.
- Just punishment. Like there is no reason to accept a celli. You see they remove all motivation for cooperation with loss of TV – and TV helps with stress.

### ***Experience with BMU Officers and Counselors***

Some reported that things were run well and that some correctional officers and staff were respectful. There were some problems that were relatively minor or more typical and others that were not. Among the more routine comments were the following:

- So-so. Not so bad. They’re a little respectful. Only one is disrespectful.
- No problems. I try to ignore them, and I don’t get written up.
- One thing, they run the day room late intentionally.
- The officers do not have respect for us. They come at us without respect – it is not like the CYA, juvie, or even county jail where you at least get some respect as a person.
- Confrontational, except for three.
- Only see those [counselors] at committee, once a month. Don’t get to talk to them.

Although we were not able to verify them, a number of serious allegations against officers were raised:

- Some officers try to provoke confrontations with the inmates (some want inmates to act out so they can put them on lockdown, which is easier for them given how understaffed they are).

- Horrible, they [counselors] lie constantly, deny your requests. Ignore the fact that the rules conflict with title 15.
- They aren't able to run the prison the way it's supposed to be run. They are understaffed so they can't run the prison correctly. And they work double. So they cause confrontations with us so they can put everybody on lockdown and make their job easier. They want you to act out because then it justifies what you are doing. And you get punished more if you try to get your rights.
- Lots of problems with correctional officers. They promote confrontations – promote physical confrontations. There is no one here to watch over these people. The Captain says he is "god of the BMU." When they searched my cell they took letters from my family, photographs, my bible, a dictionary, coffee, tea and a hand print my little daughter did. They took my toothbrush and broke my pencil into little tiny pieces. The officers say they don't have these things – and we are allowed to have them. It was reprisal for filing 602s. If you send something to internal affairs, they send it back to the person you are complaining about and then the captain will say "You are going to pay for it." You get punished more if you try to get your rights.
- They are disrespectful of inmates. They use the N word and have paraded inmates chained and naked after gassing without fully decontaminating them.
- Two of the officers mess with our mail, and one is always trying to get us into a confrontation....

#### ***Teacher and social workers***

None of the inmates indicated any problems with the teacher assigned to the BMU or any of the social workers with whom they came into contact. Several had good things to say about them:

- Good. See him [teacher] twice a week to get new packages and homework. Also sees inmates on request.
- Interaction [with teacher] is non confrontational. He is always trying to encourage us to do the program.
- Social worker from Mental Health helped request medication. She got it started, and now I'm receiving meds.

#### ***Has the BMU made a difference on the General Population Units?***

Although there were mixed responses regarding the influence of the BMU on the General Population Units, some program participants thought that it did have an impact:

- Yes, some. It has made inmates think before they get involved in negative behaviors
- No, they are still on lockdown.
- Inmates think twice before getting involved in something.
- Before BMU started, GP inmates didn't know what to expect from the program. After it started, GP inmates wanted to avoid it.

#### ***Type of inmate who benefits most from BMU placement***

The perceptions of participants regarding the type of inmates who benefits from a BMU placement are mixed:

- Haven't seen any that would.
- It might help the guy who has enough common sense to learn the curriculum – to take it to heart.
- For those open to getting help with life and relationships.
- There might be some, but BMU for inmates who won't take a celli is wrong.



ATTACHMENT G

Email from S. Kernan re: "SacBee follow-ups from discussion today" dated April 7, 2010

**Chapman, Steven (Research)@CDCR**

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**From:** Kernan, Scott@CDCR  
**Sent:** Wednesday, April 07, 2010 9:42 AM  
: Hidalgo, Oscar@CDCR; [REDACTED]; Chapman, Steven (Research)@CDCR; Giurbino, George@CDCR; McDonald, Mike@CDCR; McDonald, Terri@CDCR  
**Cc:** [REDACTED]  
**Subject:** RE: SacBee followups from discussion today

Please find my suggested responses to the reporter. I am including the warden and George for help. Its clear that the 2008 research paper is being used as a basis to say we covered up all this abuse and constitutional violations. Any help that can be had to fill in the blanks would be appreciated. See my responses to the questions below.

Scott

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**From:** Hidalgo, Oscar@CDCR  
**Sent:** Wednesday, April 07, 2010 8:53 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Fw: SacBee followups from discussion today

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**From:** [REDACTED]  
**To:** Giurbino, George@CDCR; Long, Dee@CDCR  
**Cc:** Chapman, Steven (Research)@CDCR; Hidalgo, Oscar@CDCR; Hinkle, Gordon@CDCR  
**Sent:** Wed Apr 07 08:31:41 2010  
**Subject:** FW: SacBee followups from discussion today  
Good morning,

Charles Piller with the Sac Bee interviewed Scott Kernan yesterday. Here are his follow up questions. Please review and advise. Thank you.

[REDACTED]  
California Department of Corrections and Rehabilitation  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<http://www.cdcr.ca.gov>

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**From:** Piller, Charles - Sacramento [mailto:[REDACTED]]  
**Sent:** Tuesday, April 06, 2010 5:09 PM  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR  
**Subject:** SacBee followups from discussion today

Dear [REDACTED]

Thanks again for your assistance today.

Here are my followup questions as we discussed with Mr. Kernan:

1) Why was the HDSP BMU evaluation never publicly released?

I'm not sure how to explain this really. Once Research does a project do they put it on their web site, distribute internally, what's our business practice here (Steve Chapman)? I know I received a copy when it was completed, so maybe response is that its distributed internally and provided externally if requested directly to Research???. Also confirmed that when researchers at prison completed study they did an exit and provided findings and presumably the inmate allegations to prison leadership. Cannot confirm that they did anything with the information. However, my review of the allegations in their appendix is consistent with inmate complaints throughout the system.

2) Were the changes mandated in the attached court ruling from Monterey County implemented in all BMUs, statewide? If selectively implemented, please explain.

Mike/George, need help here. Did you guys do anything with BMU exercise hours as a result of this ruling. I understand this ruling required SVSP to ensure that BMU inmates received same exercise time as GP?

3) Did anyone at HDSP investigate the allegations of abuse and constitutional violations raised in the BMU research report? If so, please provide any details and outcomes. If not, why not?

Inmates have many ways to address their complaints: appeals, OIG, litigation, BSA, OIA, Ombudsman, etc. As stated above the complaints appear to be consistent with typical inmate complaints and I do not think concerns raised to researchers would be natural method for us to address these stated concerns. So maybe response is that individual complaints by BMU inmates would have been investigated through traditional complaint processes and that we are seeking information to the reporters Public Info Request to determine the extent of internal review or even to the extent that inmate's used the normal complaint process.

4) Did Dr. Chapman raise the question of alleged abuse and constitutional violations with anyone at the prison or at CDCR headquarters or at the IG office? If so, to what end? If not, why not?

I think this response is same as above. Research work product is not traditional complaint method. Alleged abuse and constitutional violations are addressed through the processes identified above. So no, Dr. Chapman did not nor is it natural for him to use research work product to report inmate complaints.

5) Are you able to approve my request to interview researchers Norman Skonovd and Niidki Baumrind?

Oscar, maybe you can help here. I see no value in stopping an interview of an employee who clearly has spoken off the record to this reporter. Gets into grey area. Might want to let them do interview and if they raise anything significant we can be clear that they did not report or use any of the employee complaint, whistleblower, or even told beyond their direct supervisor these allegations. I am still going to try and talk with them to see if I can understand their angle, but need help on if we should permit direct interview. I lean to yes as to not let them will only add to the conspiracy the reporter believes is present.

any thanks.

Charles

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Charles Piller  
The Sacramento Bee

