

Prisoners Transforming Prisons

by Laura Magnani

Something truly historic has been happening in California regarding solitary confinement. Prisoners and their family members are leading the movement against it, dramatically reducing the number of people held in isolation.

Although the California Department of Corrections and Rehabilitation (CDCR) has long claimed it doesn't use solitary confinement, men and women have been held indefinitely in isolation, in bathroom-size cages, since the state began creating "supermax" facilities in the 1980s. First introduced by the Federal Bureau of Prisons in 1972, "secure housing units" (SHU) are built for long-term solitary confinement, originally intended to isolate perceived political prisoners or prisoners difficult to subdue. In California, they have been used primarily for gang management – with "gang" being a designation determined by the prison system, based on perceived associations and racial profiling, and not on actual behavior.

While "the hole" has always been a part of prison discipline – a dreaded place a person could be sent for bad behavior – SHU transformed "the hole" into something even more hellish. Most SHU cells are approximately six feet by ten feet in size. The cells are often windowless and lights might be left on (or off) twenty-four hours a day. Until 2015, the average length of a stay in a California SHU was six years, but over five hundred prisoners had been isolated for over ten years, some for over forty. Despite constant pressure from organizations like American Friends Service Committee (AFSC), California Prison Focus, and other prisoner-rights groups, no amount of outside pressure seemed able to crack this inhumane system.

That began to change in California in early 2011. Prisoners who had been locked down twenty-three to twenty-four hours a day for decades at Pelican Bay State Prison, with no contact with anyone except guards, began shouting through their meal tray slots to other isolated prisoners. Slowly and painstakingly, these men reached a decision to work with each other across supposed "gang groups." They choose a revered non-violent tactic, the hunger strike, and agreed on demands for changes that were long overdue.

Although we originally thought of these men as "leaders," that is a dangerous label for anyone in prison. CDCR

perceives any leadership by prisoners as a threat. Also, the men themselves represented different so-called "gangs," and they strictly adhered to a policy that all groups needed to be part of all decision-making. They began calling themselves "the Reps."

Hunger strikes have a long and revered history among nonviolent activists around the world. Icons of nonviolence such as Mohandas Gandhi and Cesar Chavez regularly employed hunger strikes to dramatize their issues. Prisoners especially have adopted this tactic. The historic hunger strike of Irish prisoners in 1981, which took the life of Bobby Sands and nine others, raised public awareness of the prisoner's demand to be recognized as political prisoners. Nelson Mandela went on a six-day hunger strike in prison, helping prisoners there win visitation rights for their children. Jailed suffragettes fasted to demand the right to vote prior to World War I. The men of Pelican Bay State Prison realized this tactic might work for them, too.

*Prisoners especially
have adopted the tactic
of the hunger strike.*

The Reps understood they could not succeed alone. From the beginning, the prisoners' strategy was to address issues in as many arenas as possible simultaneously: legislative, administrative, public opinion, and the courts. Four people – Todd Ashker, Sitawa Nantambu Jamaa, Antonio Guillen, and Arturo Castellanos – sent information to groups throughout the state, including AFSC, saying, "We will not be successful if you don't organize to support us on the outside." With that, prisoners launched what is now a robust movement to change solitary confinement in California and in other parts of the country.

AFSC immediately joined with other anti-prison organizations to develop common strategies. The coalition that formed on the outside included a large number of family members who co-founded California Families Against Solitary Confinement (CFASC), which became the backbone of the Prisoner Hunger Strike Solidarity Coalition (PHSS). PHSS has met every

Monday night since early 2011, and continues to do so, organizing events, publishing articles, speaking to the press, visiting people inside, meeting with state officials, challenging administrative changes, and advocating wherever we see openings.

At the outset, the Reps asked for a Mediation Team to facilitate communication between themselves and the CDCR, although the function of the Mediation Team was really not about “mediation,” but about communication. The membership of the team was approved by the Reps and comprised several long-term anti-prison activists, including attorneys, formerly incarcerated people, family members of long-term SHU prisoners, and myself.

Although the Department had originally announced that it “didn’t negotiate with prisoners and didn’t recognize the Mediation Team,” they were on the phone with us immediately when the first hunger strike began in early July 2011. On July 4, the entire Team met by conference call with top CDCR officials for two hours to discuss conditions in solitary and the need for change. Department officials came to Oakland for a second meeting several weeks later.

That first strike ended after thirty days. It won limited, superficial concessions to improve prisoners’ lives – calendars with pictures, knit caps, the right to send a picture to loved ones – but the biggest accomplishment was the launching of a movement. As Todd Ashker put it, “At least 6500 prisoners across the state and other states participated. It drew global attention . . . and was a catalyst for breathing renewed life into the prisoner-rights activist movement on the streets.”

A second strike got underway in September. This time, the CDCR tried to stall the process by refusing to meet with the Mediation Team and by blocking two of the attorneys from seeing their isolated clients. We were at a standstill for nearly three weeks before the CDCR recognized that resolving the strike would take facilitated conversations. Several members of the Mediation Team drove to Sacramento and engaged in a call with the striking prisoners and negotiations with the CDCR. We were amazed that the strikers were still thinking and talking clearly after nearly three weeks without food. The conversation ended with two significant agreements. First, the CDCR agreed to hold hearings for people who had been held in SHU for excessive periods of time. Second, the Department agreed to create a way for people to be released from SHU without becoming informants for the state.

The agreement was put in writing, but it took over a year for the administrative regulations governing those changes to be issued – after extensive vetting by “stakeholders” and after much drafting and re-drafting. It took even longer before hearings were actually held to consider releasing individuals from isolation, many of whom had been held there for decades without any disciplinary write-ups. Not surprisingly, the results of the first 750 hearings were that 60 percent of the prisoners were transferred to general population, and those percentages rose much higher later, after a related court settlement.

*The prisoners issued a
“Call to End Hostilities,”
hoping to remove a premise
for the prison’s isolation policies*

In 2012, the prisoners issued a *Call to End Hostilities*, hoping to remove a premise for CDCR isolation policies by removing conflicts among assumed “gang” groupings. Distributing the *Call* throughout the prisons was difficult. The CDCR refused to help with distribution. Here again, cooperation between prisoners and supporters outside made a difference. AFSC published the *Call* on our website and in our newspaper, *Street Spirit*, which has a circulation of 20,000. The *S.F. Bay View*, a newspaper widely circulated inside prisons, also published the *Call*. Many outside organizations also mailed the *Call* to people inside.

Still, by 2013, most SHU prisoners remained in isolation. The agreement that had promised a reasonable way to for them to seek release from isolation without becoming informants never materialized. Instead, CDCR developed a series of demeaning workbooks for prisoners to fill out, a program designed to keep them in isolation for at least four more years. In response to this glacial pace of change, prisoners at Pelican Bay called for a third hunger strike.

On July 8, 2013, thirty thousand prisoners in California – and hundreds more across the United States – began to refuse taking meals. Over two hundred prisoners deprived themselves of solid food for sixty days. At least one prisoner died, though the Department would not confirm that the cause of death was related to the hunger strike. Pressure mounted.

(The only other mass hunger strike that has lasted this long is the one still underway at Guantanamo Bay, where

forty-one prisoners are still being held indefinitely, many without charges or trial. Some have been refusing food for four years, and are being force-fed twice a day by officials.)

Thirty days into the strike, the Mediation Team was granted one call with the strikers. Once again, the strikers astounded us with their clear thinking after so many days without food. We recognized with them that no progress had been made toward meeting their demands. In the end, they decided to stay the course. The CDCR deemed this to be a “failure” of the Mediation Team – for not “ending” the strike – and they refused us any further contact with the prisoners.

As the days mounted, we grew more desperate to find a way forward. We finally proposed to Department officials that we conduct a call with the prisoners that included the officials themselves. The CDCR granted this request immediately. The strike was in its fifty-eighth day.

A deep discussion between the men, the Team, and officials ensued. We discussed recent developments in the California Legislature, where both houses were scheduling hearings on solitary confinement. An official with the CDCR made a commitment to sit down with the Reps once the strike ended, to discuss a broad range of issues. However, the Reps said they could not make that decision without consulting with other prisoners. Though the Department initially balked at this request, the following day, two other conference calls were granted. Again, the CDCR participated and watched as the Reps engaged in a consensus decision-making process with other strikers. After much discussion among many strikers, they decided to suspend the strike.

Not only did the California Legislature make good on its promise to hold public hearings about solitary confinement, prison officials also made good on their commitment to discuss issues with prisoners. They sat down together for two days to discuss the changes the prisoners were seeking. We were all cautiously optimistic about those developments.

As a result of those hearings by the Legislature and the negotiations between strikers and CDCR officials, some small steps were taken to make life in SHU slightly more bearable. For example, the list of personal property items available to prisoners who can afford them was expanded, and visiting hours at Pelican Bay were extended to three hours. However, substantial changes have not been implemented that would provide reasonable ways for prisoners to earn release from isolation. In fact, even

though one small step toward such a process was approved by the California Legislature in 2016 – after advocacy by AFSC and the Friends Committee on Legislation of California – the CDCR has still not implemented those changes. The Department’s unwillingness to follow legislative requirements (and often court orders) is shocking, especially considering their job is to punish people who fail to follow the law.

*Prison officials’ unwillingness
to follow legislative requirements
(and often court orders)
is shocking,
especially considering their job
is to punish people
who fail to follow the law.*

Hunger strikes and legislative hearings were not the only approaches taken by our coalition. In 2012, the Center for Constitutional Rights in Washington D.C., accompanied by Legal Services for Prisoners with Children in San Francisco and other independent attorneys, agreed to take the case on behalf of California prisoners who had been kept in SHU indefinitely. There were two constitutional challenges they believed had merit: first, that solitary confinement violates the clause against “cruel and unusual punishment” and second, that the process for placing people in long-term isolation violates principles of “due process.”

The attorneys involved the clients in all decision-making, even though that required lengthy phone calls regularly with people in isolation. When it came time to go to court, the hunger strikers were “in the courtroom” electronically for much of the proceedings. These approaches set a new standard for conducting class-action cases with incarcerated clients.

This lawsuit was settled in 2016 before going to trial. If the provisions of the settlement are actually implemented by the CDCR the changes could be dramatic. The settlement requires that:

- Indefinite solitary confinement be eliminated,

- Everyone currently in SHU be given hearings concerning potential transfer to general population,
- More humane facilities be built for people deemed unfit for the general population,
- Gang association alone can no longer be grounds for SHU assignment,
- A program allowing prisoners a means to earn release from isolation would not take longer than two years to complete, and finally,
- Attorneys in the case monitor the implementation of the agreement for two years, and if a pattern of violations is evident, the judge can order that monitoring to continue beyond two years.

These are huge changes. The hearings alone resulted in an 87% drop in the SHU population, and a 62% drop in Administrative Segregation. Those who have been transferred to general population are renewing family ties, have access to programming in some cases, and have been peacemakers in many prisons.

Tragically, nothing has yet succeeded in fulfilling the most important demand of this campaign: the elimination of the practice of using “confidential information” to keep prisoners in solitary confinement. Called “de-briefing,” this

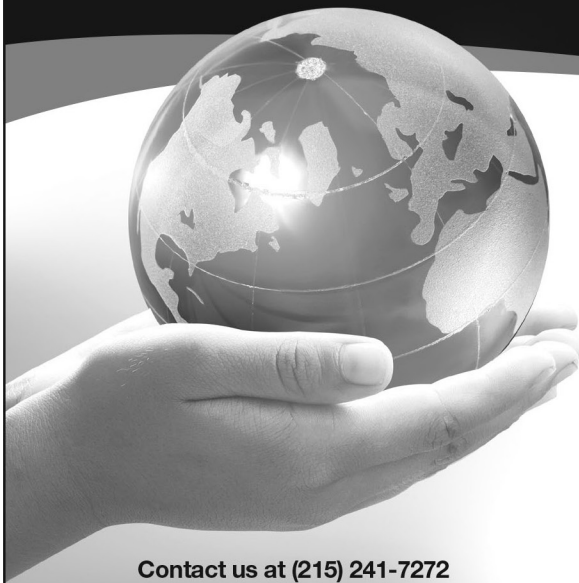
practice requires people in isolation to prove they are no longer involved in gangs by becoming gang informants. This not only risks the person’s life. It is coerced “information” that violates international laws against torture. Coerced evidence keeps prisoners in isolation without any ability to challenge its validity or even know what evidence is being used against them. As long as the Department is allowed to operate by relying on informants – as law enforcement does throughout the country – prison officials have virtual total power and no accountability.

Vested interests persist. Power is seductive and addictive. Fear is an ever-present driver of repression and cruelty. The only antidotes to these realities are our own vigilance as people who want to bring about a more just world, and the leadership and commitment of people who are directly impacted by the system. As a man in the SHU at Corcoran put it in 2011, “I am a prisoner, not a puppet. . . A man, not an animal. . . And although I’ve endured this hell, I will never accept it.” ❖

Laura Magnani works for the Northern California office of American Friends Service Committee. She is a member of Strawberry Creek Meeting in Berkeley, CA (PYM).

To read an unabridged version of this article, see: westernfriend.org/media/prisoners-transforming-prisons-unabridged

Adding values to strong performance.



Contact us at (215) 241-7272
info@friendsfiduciary.org
www.friendsfiduciary.org

Friends Fiduciary Corporation manages over \$350 million in assets for more than 330 Friends organizations and faith communities.

- FFC has outperformed our respective industry benchmarks, exceeding the returns of many other socially responsible investments
- Rigorous screening ensures investments consistent with Quaker values
- Low fees, excellent customer service

Friends Fiduciary