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**GANGS IN CALIFORNIA'S PRISON SYSTEM:  
WHAT CAN BE DONE?**

“Do politicians and the public realize that when a male defendant is sentenced to prison, there is a good chance that he will join a gang (voluntarily or involuntarily), regard it as his family, submit to its discipline, and work toward its antisocial goals; and that if the inmate is not gang material, he may be preyed upon, terrorized, exploited, and dominated by the gang?”

— James B. Jacobs<sup>1</sup>

ABSTRACT: Prison gangs pose a significant challenge to the safe administration of California's prison system. This paper examines attempts by various states to curb prison gang activity, and suggests some gang reduction programs California might consider pursuing.

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<sup>1</sup> James B. Jacobs, *Focusing on Prison Gangs*, 5 CORRECTIONS MANAGEMENT QUARTERLY no. 1, vi (Winter 2001).

## I. INTRODUCTION: CALIFORNIA'S PRISON GANG PROBLEM

Prison gangs are defined in a variety of ways, but the following is a reasonable working definition of the term as it is used in this paper:

[A prison gang is] an organization which operates within the prison system as a self-perpetuating criminally oriented entity, consisting of a select group of inmates who have established an organized chain of command and are governed by an established code of conduct. The prison gang . . . has as its goal to conduct gang activities by controlling their prison environment through intimidation and violence directed toward non-members.<sup>2</sup>

Within the corrections community, prison gangs are often referred to as Security Threat Groups (“STGs”). To further complicate matters, many prison systems employ subcategorization systems for prison gangs in which only the most active and threatening gangs are classified as STGs, while less “serious” gangs are tracked in different ways, and may be subject to less intense scrutiny. Because no definitive standards exist and every state employs its own approach to identifying, labeling and tracking prison gangs, making meaningful use of what little data there is in this area is challenging.<sup>3</sup>

Whatever definitions are employed, it is not difficult to understand why correction systems administrators would want to limit prison gang activity. A prison cannot function properly if the staff does not maintain sufficient control over the inmates. Gangs are essentially unauthorized prisoner associations, and thus represent potentially competing sources of authority within the prison. As Jacobs describes, “[f]or rank and file members, the most significant reality is the gang, its leaders’ praise or criticism, peers’ approval, and endless intrigues, conflicts, and rackets. The gang leaders are not likely to be pleased by a subordinate’s shifting their allegiance to professional staff and pro-social goals.”<sup>4</sup> As the balance of power in an institution shifts toward gangs, the administration loses the leverage it needs to achieve its safety and correctional goals. Prison gangs are increasingly able to pursue their own agendas as their power grows, and as they become more credible sources of authority, incentives (and pressures) for individual inmates to join a gang increase as well.

Prison gangs have been clearly linked to significantly increased levels of violence within prisons. A 2001 study of gangs within the federal prison system found that, even controlling for the likelihood that more violently predisposed inmates might join gangs, gang members were more likely than non-members to commit violent crime while in prison.<sup>5</sup> The study also showed that inmates who were closely affiliated with gangs committed violent crime at higher rates than those who were less closely affiliated, and that unaffiliated inmates showed the lowest rates of in-prison criminality.<sup>6</sup> In addition, the study found a general trend of increased drug use and dealing among gang members.<sup>7</sup> Beyond concerns about increased crime rates within prisons, there is evidence that some prison gangs have developed substantial power outside of the confines of prisons, and that imprisoned gang leaders are overseeing the continued criminal activity of released gang members.<sup>8</sup> The evidence shows, in short, that prison gangs pose a significant threat, to their own members, to other inmates and to the communities gang members return to upon release from prison.

In California, prison violence is a very real problem. In 2003, the then California Department of Corrections (which has since been renamed the California Department of Corrections and Rehabilitation,

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<sup>2</sup> M.D. LYMAN, *GANGLAND* 48 (1989).

<sup>3</sup> See AMERICAN CORRECTIONAL ASSOCIATION, *GANGS IN CORRECTIONAL FACILITIES: A NATIONAL ASSESSMENT* 53 (1993).

<sup>4</sup> Jacobs, *supra* note 1, at vi.

<sup>5</sup> Gerald G. Gaes, et al., *The Influence of Prison Gang Affiliation on Violence and Other Prison Misconduct*, 82 *THE PRISON J.* no.3, 381 (Sept. 2002).

<sup>6</sup> *Id.*

<sup>7</sup> See *Id.*

<sup>8</sup> See Denise Orlando-Morningstar, *Prison Gangs*, *SPECIAL NEEDS OFFENDERS BULLETIN* No. 2 (Oct. 1997).

or “CDCR”) reported 7,170 incidents of assault within its prisons, of which 1,843 were armed assaults, and 14 were fatal.<sup>9</sup> This represents a rate of assault of 4.7 per 100 inmates.<sup>10</sup>

Determining the precise number of prison gang members housed in the California system is more difficult. As Gaes, et al. indicated in their excellent study of gang violence in federal prisons, figuring out whether a particular inmate is a gang member can be complex and controversial. The authors speculate that “the boundaries between members and nonmembers is less permeable in prison than on the streets,” but also cite a study showing that police generated lists of street gang members contained only some of the gang’s self-identified members, while nearly half of the individuals on the list did not define themselves as gang affiliated.<sup>11</sup> The point here is that even where authorities agree on what it means to be a prison gang member, that definition may not square with the understanding of the inmates themselves, and it may remain difficult to determine which inmates meet the agreed upon characteristics.

The data available on California prison gang membership bears this out. On one hand, as of 2003 there were approximately 1,350 “validated” prison gang members held in maximum security Secured Housing Units (SHUs) in the state.<sup>12</sup> On the other, one commentator, citing a CDCR official, states that in 2000 over one third of California’s approximately 160,000 inmates were being “tracked” for prison gang activity.<sup>13</sup> The divergence in these numbers is likely attributable at least in part to the way California tracks and responds to prisoner interactions with gangs (see Sections II.A and II.D below). Regardless of which numbers one relies upon, however, the link between prison violence and prison gangs is well-recognized by those working within the system. A California prison official interviewed in 2003 stated that “prison gang members and associates are responsible for the largest percentage of violence in our institutions.”<sup>14</sup> Likewise, in 2005 the Director of CDCR described prison gangs as a “huge problem” for California.<sup>15</sup>

Unsurprisingly, then, the state of California has taken a special interest in the problem of prison gangs. A number of approaches have been tried, including construction of new prison facilities specifically designed to isolate top gang members in an effort to weaken their grip on the California corrections system.<sup>16</sup> The problem presented by prison gangs remains daunting, however, and in its latest published Strategic Plan, the CDCR stated that among its objects is to “[d]evelop and implement a comprehensive evidence-based gang management program.”<sup>17</sup> That this item remains on the CDCR’s agenda represents an acknowledgement that attempts to combat prison gangs have thus-far proven insufficient.

In this paper, I address potential approaches to the problem of prison gangs. I begin by analyzing California’s various and ongoing administrative attempts to curb gang power, such as gathering information on and classifying inmates, transferring gang members or leaders to other prisons, and providing isolated, maximum security housing for gang members. I also examine steps that other states

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<sup>9</sup> California Department of Corrections, *Inmate Incidents in Institutions, Calendar Year 2003*, p. 2, available at [www.corr.ca.gov/OffenderInfoServices/Reports/Annual/BEH1/BEH1d2003.pdf](http://www.corr.ca.gov/OffenderInfoServices/Reports/Annual/BEH1/BEH1d2003.pdf) (Oct. 2004) (last accessed Nov. 16, 2005).

<sup>10</sup> See *id.* at 2-3 (8 “incidents” per 100 inmates, of which 59.4% are assaults).

<sup>11</sup> Gaes, et al., *supra* note 5, at 362.

<sup>12</sup> See Senate Select Committee on the California Correctional System hearing transcript (Sept. 15 2003), available at <http://www.prisons.org/SHU%20Follow-up.pdf> (last accessed Jan. 27, 2006). For more on the validation process, see Sections II.A and II.D below.

<sup>13</sup> Peter M. Carlson, *Prison Interventions: Evolving Strategies Control Security Threat Groups*, 5 CORRECTIONS MANAGEMENT QUARTERLY no. 1, 10, 16 (Winter 2001).

<sup>14</sup> *A Necessary Evil?*, Los Angeles Times Magazine, 12 (Oct. 19, 2003) (quoting Steve Moore in article on the then-new Pelican Bay maximum security prison).

<sup>15</sup> Undersecretary Jeanne Woodford, Director of the California Department of Corrections and Rehabilitation, Remarks to Professor Joan Petersilia’s “Crime and Punishment Policy: Reforming California Corrections” class (Nov. 9, 2005).

<sup>16</sup> See *Id.*

<sup>17</sup> See State of California Youth and Adult Correctional Agency Strategic Plan, Objective 5.2.4 (Jan. 2005).

with significant prison gang membership have employed, including instituting gang renunciation (or “deganging”) programs, and efforts to either create gang-free prisons or to make portions of existing prisons gang-free.

It should be noted at the outset that this paper employs a somewhat anecdotal approach to the topic of prison gang control not by choice, but because empirical analysis of the various techniques prisons use to control gangs is essentially nonexistent. As Fleisher and Decker explained in 2001, [p]risons have tried a variety of overt and covert strategies, including the use of inmate informants, the use of segregation units for prison gang members, the isolation of prison gang leaders, the lockdown of entire institutions, the vigorous prosecution of criminal acts committed by prison gang members, the interruption of prison gang members’ internal and external communications, and the case-by-case examination of prison gang offenses. There are, however, no published research evaluations testing the efficacy of these suppression strategies on curbing prison gang violence and/or other criminal conduct inside correctional institutions.<sup>18</sup>

This summation of the state of research on efforts to battle prison gangs remains true today.

Accordingly, I proceed in this paper by describing in some detail the attempts that have been made or are presently underway, and offering my own best judgment of how these programs appear to be faring. I conclude the paper by suggesting some steps that California might consider taking, with the significant qualification that solid evidence supporting the efficacy of programs to combat prison gangs is lacking. California has taken an unfortunate lead in the growth and strength of gangs in its correctional system. Now, I argue here, California must also take the lead in implementing and effectively evaluating new methods to cope with its prison gang problem.

## II. CURRENT APPROACHES TO PRISON GANG MANAGEMENT

Prison gangs represent a real threat to California’s correctional officers, inmate population, and to the ability of prison administrators to carry out their other policy goals effectively. But what can be done? This section examines some of the approaches to control prison gangs that have been attempted in California and in other states, as well as proposals that have yet to be implemented. It is worth mentioning at the outset that corrections institutions truly are taking the issue of prison gangs seriously, as a 2002 survey indicated that 76% of prisons and 44% of jails report taking one or more steps specifically to combat prison gang growth or activity.<sup>19</sup> Most prisons also seem to subscribe to a “zero tolerance” approach to gang involvement, in which significant action is to be taken *whenever* inmates are found to be engaging in prison gang activities.<sup>20</sup> It should also be noted, however, that there has been very little empirical research into whether particular prison gang control methods are effective. Accordingly, this discussion incorporates both the limited survey data and somewhat more abundant anecdotal responses, with the caveat that few if any of the approaches discussed can be said to be demonstrably effective.

### A. Information Gathering and Classification of Inmates

An initial and necessary step in controlling gang populations in prisons is to determine which inmates are gang members. This proves in practice to be a difficult task, both because inmates may be reluctant to reveal their status if they fear punishment will result, and because it is not always clear what level of participation in a gang signifies “membership,” as opposed to some lesser level of involvement.

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<sup>18</sup> Fleisher and Decker, *supra* note 43, at 7.

<sup>19</sup> Richard Ruddell, et. al., *Gang Interventions In Jails: A National Analysis*, 9, unpublished, available at [http://www.hawaii.edu/hivandaids/Gang\\_Interventions\\_In\\_Jails\\_A\\_National\\_Analysis.pdf](http://www.hawaii.edu/hivandaids/Gang_Interventions_In_Jails_A_National_Analysis.pdf) (citing J.B. WELLS, ET. AL. A STUDY OF GANGS AND SECURITY THREAT GROUPS IN AMERICA’S ADULT PRISONS AND JAILS, 14 National Major Gangs Task Force (2002)) (last accessed Nov. 16, 2005).

<sup>20</sup> Woodford remarks, *supra* note 15 (describing California’s zero tolerance policy for gangs).

California has a formalized process for identifying gang members that begins when an inmate first enters the prison system through one of the State's reception centers. As part of the intake process, an Institutional Gang Investigator ("IGI") is required to fill out a "Notice of Critical Information – Prison Gang Identification" form if an inmate "has been designated as a member, affiliate, associate, or defector of the Neustra Familia, Mexican Mafia, Texas Syndicate, Black Guerilla Family, or Aryan Brotherhood."<sup>21</sup> The criteria for designation as a gang member in California are as follows:

*Self Admission.* Shall require verification from another source.

*Tattoos and Symbols.* Body markings identified by IGIs as indicative of specific prison gangs.

*Written Material.* Any material or documents determined to indicate prison gang involvement or activity such as membership lists, enemy lists, gang constitutions, structure, codes or training materials of specific groups.

*Photos.* Individual or group photographs with gang connotations such as insignia or symbols or group photos with known gang members.

*Staff Information.* Documented staff observations which reasonably indicate and verify gang involvement or association. . . .

*Other Agencies.* Information provided by other agencies shall be documented. If the information is received orally, department staff shall document the information, citing the source and the validity (such as the other agency's basis for determining an affiliation).

*Association.* Enter only information related to the inmate's/parolee's association with known gang members or with persons directly linked to known gang members. Such information can relate to street associations, crime partners, institutional associations, or visitors or correspondents of gang members.

*Confidential Sources.* The date of the information and the type of the source shall be noted. Any document relating confidential information from an inmate source shall also include an evaluation of the source's reliability. . . .

*Commitment Offense.* Where the circumstances of an offense reveal evidence of gang affiliation, the counselor shall check for such indicators as victim, gang related crime, crime partners, witnesses, ethnic consideration, area of commitment or "home town." "Home town" and ethnic considerations alone shall not determine gang affiliation but shall be considered in context with other substantiating information.

*Legal Documents.* POR or court transcripts.

*Visitors.* Documentation shall be made of visitors who are known gang "runner," street members or members of an organization which associates with prison gangs.

*Debriefing Reports.* Official material detailing the voluntary statement of an inmate or parolee who claims to have defected from a prison gang or disruptive group.<sup>22</sup>

California thus considers a wide range of indicators in determining an inmate's gang status. Unsurprisingly, corrections staff are also required to designate inmates as gang members if at any point during their incarceration new evidence of gang involvement becomes available.<sup>23</sup>

As explicitly recognized in the California regulations cited above, inmates do not interact with prison gangs in a uniform manner—they may engage in a number of distinct ways that should arguably inform corrections policy. For example, the Federal Bureau of Prisons utilizes a three-tiered classification system in which inmates linked to a prison gang are designated as "members," "suspects," or "associates," where members are "full fledged, core gang members," suspects are actively pursuing

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<sup>21</sup> CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, DEPARTMENT OPERATIONS MANUAL, §§ 61010.4, 61020.6, available at [http://www.corr.ca.gov/RegulationsPolicies/PDF/DOM/00\\_dept\\_ops\\_maunal.pdf](http://www.corr.ca.gov/RegulationsPolicies/PDF/DOM/00_dept_ops_maunal.pdf) (last accessed Nov. 16, 2005).

<sup>22</sup> *Id.* § 61020.7.

<sup>23</sup> *Id.* § 61020.1.

membership, and associates conduct business for the gang but are not officially affiliated.<sup>24</sup> Gaes et al.'s research indicates that inmates who are more embedded in gangs show significantly higher rates of violent behavior in prison.<sup>25</sup> These results were duplicated in a survey asking inmates to self-report their level of gang involvement on a six point scale, which found that the stronger an inmate's gang affiliation, the more likely he was to have received a disciplinary report, been involved in a fight, initiated a fight, made or carried a weapon, and threatened a correctional officer.<sup>26</sup>

In 1992, the United States Department of Justice suggested that only 15-20% of those who associate with gangs in prisons qualify as "hard core" members,<sup>27</sup> and the studies cited above suggest an inmate's level of embeddedness in a gang may be more important than association in terms of predicting behavioral problems. Corrections institutions should be able to better maximize their resources and craft containment and treatment plans suited to individual inmates if they can take explicit note not only of which gang an inmate has ties to, but what degree of involvement he or she is currently engaged in.

### **B. Interruption and Punishment of Criminal Behavior By Gangs**

A theory expressed throughout the literature is that associating with a prison gang is a rational choice for many inmates simply because prisons are extremely dangerous places, against which gang membership may provide some level of protection.<sup>28</sup> One potential response to this problem is to take direct steps to make prisons safer by expanding the use of video surveillance, increasing the ratio of correctional officers to inmates, and increasing the frequency and efficacy of searches of inmate and cells, with the aim of decreasing acts of violence and making gang membership less appealing.<sup>29</sup> It is hoped, of course, that *any* successful anti-gang strategy in prisons will also lead to decreased violence and safer institutions, and it should be noted that there is little empirical evidence to support the theory that safer prisons will lower (or even stop increases in) gang density.

Coupled with attempts to deter gang violence, some corrections systems have also stepped up efforts to prosecute inmate gang members for the crimes they commit in prison, in hopes of both increasing the cost at which such gangs operate and dissuading new members from joining. Such efforts are hampered by the inherent difficulty of gaining witness and victim cooperation. In many states there is also a serious financial constraint, in that the costs of prosecuting crimes committed in prisons is borne entirely by the county in which a prison is located.<sup>30</sup> Efforts to address this issue have included a State funded prosecution costs reimbursement program in New York, state-assisted investigation and prosecution in Wisconsin, and formation of state-level prosecution teams in several states specifically to address prison gang crime.<sup>31</sup>

Texas introduced a special unit dedicated to prison gang crime prosecution in the wake of a severe gang violence upsurge in the mid 1980s. Creation of a special team to investigate and prosecute these problems was important for two reasons: it allowed state officials to gain familiarity with prison gangs and their patterns of behavior, and it took pressure off of already overloaded local prosecutors, who

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<sup>24</sup> Gaes et al., *supra* note 5, at 362.

<sup>25</sup> *Id.* at 381.

<sup>26</sup> NATIONAL GANG RESEARCH CENTER, THE FACTS ABOUT GANG LIFE IN AMERICA: A NATIONAL STUDY OF OVER 4,000 GANG MEMBERS, *Chapter 4: Model 1 of the STG/Gang Classification System for Adult and Juvenile Correctional Populations*, available at [www.ngcrc.com/ngcrc/page9.htm](http://www.ngcrc.com/ngcrc/page9.htm) (last visited Nov. 16, 2005).

<sup>27</sup> Ruddell, et. al., *supra* note 19, at 18.

<sup>28</sup> See MICHAEL K. CARLIE, INTO THE ABYSS: A PERSONAL JOURNEY INTO THE WORLD OF STREET GANGS, *Chapter 5: Gangs and Prisons*, available at [www.faculty.missouristate.edu/m/mkc096f/what\\_I\\_learned\\_about/prisons.htm](http://www.faculty.missouristate.edu/m/mkc096f/what_I_learned_about/prisons.htm) (last visited Nov. 16, 2005).

<sup>29</sup> See MICHAEL K. CARLIE, INTO THE ABYSS: A PERSONAL JOURNEY INTO THE WORLD OF STREET GANGS, *Chapter 6: Solutions in Confinement*, available at [http://www.faculty.missouristate.edu/m/mkc096f/solutions/institutions/jails\\_prisons.htm](http://www.faculty.missouristate.edu/m/mkc096f/solutions/institutions/jails_prisons.htm) (last accessed Nov. 16, 2005).

<sup>30</sup> NATIONAL INSTITUTE OF CORRECTIONS, MANAGEMENT STRATEGIES IN DISTURBANCES AND WITH GANGS/DISRUPTIVE GROUPS, 11 (1991).

<sup>31</sup> *Id.*

generally did not direct significant resources to investigation and prosecution of in-prison crime.<sup>32</sup> At the same time, Texas prisons also instituted much more aggressive inmate and cell search procedures, and the Texas legislature passed a bill making possession of a weapon in prison a felony, with sentenced time to be served consecutively rather than concurrently.<sup>33</sup> This combined effort by law enforcement, prosecutors and the legislature led, say some commentators, to an extraordinary decrease in the prevalence of weapons in the Texas prison system.<sup>34</sup>

New York City's jail system has also taken a hands-on enforcement approach to battling prison gangs. Administrators are diligent about arresting gang members for *any* crimes they commit while in jail, and require only one eye-witness account to make such arrests.<sup>35</sup> Although many such arrests do not lead to conviction, administrators feel this approach will have a deterrent effect: "Our goal is to make the inmate's life difficult. We're sending a clear message we're not tolerating violence."<sup>36</sup> Jail administrators also take pains to let other gang affiliates in their system know when one of their members has been convicted for crimes committed while in jail.<sup>37</sup> The goal here is once more to demonstrate to inmates that violence, and especially gang related violence, is being monitored and will be punished. These two innovations, as part of a more comprehensive approach to tracking and suppressing gangs in New York City's jails, were credited with creating a significant decrease in violence at Rikers Island, from 150 violent incidents per month in 1995 to 33 violent incidents per month in 1997.<sup>38</sup>

The approaches taken in Texas and New York appear to have had been beneficial in the short-term. Again, however, no direct evidence is available to show that increased rates of prison gang crime prosecution deter such crime or impact prison gang enrollment.

### C. Transferring Inmates

One popular approach to dealing with prison gangs, and especially to their leadership, has been to transfer them to different institutions (in the more exceptional cases, either sending them out of state or into the Federal prison system).<sup>39</sup> This approach is often referred to within the corrections community as "bus therapy" or "diesel treatment."<sup>40</sup> In a 1993 survey of all fifty states' prison systems, 73% of states reported utilizing in-state transfers as one method of dealing with prison gang members, while 47% reported utilizing out-of-state transfers for this purpose.<sup>41</sup> A 1991 survey of prison administrators likewise found that 70.9% of administrators believed transfer to be an effective tool.<sup>42</sup>

There is significant debate about the value of this approach—in the short term it may debilitate gangs by removing their leaders, but it appears that many gangs have chains of command strong enough to withstand significant disruption at the upper levels. In addition, experts are concerned that sending gang leadership to new institutions provides them with an opportunity to create gang chapters in their new

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<sup>32</sup> See Paige H. Ralph and James W. Marquart, *Gang Violence in Texas Prisons*, 71 THE PRISON J. no. 2, 44-45 (Fall/Winter 1991).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Barbara A. Nadel, *Slashing Gang Violence, Not Victims: New York City Department of Corrections Reduces Violent Jail Incidents Through Computerized Gang Tracking Data Base*, CORRECTIONS COMPENDIUM, 21 (Oct. 1997)

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 22.

<sup>38</sup> *Id.* at 20.

<sup>39</sup> Pila Martinez, *Novel Attempt to Curb Prison Gang Violence*, CHRISTIAN SCIENCE MONITOR, July 21, 1999.

<sup>40</sup> George W. Knox and Edward D. Tromanhauser, *Gangs and Their Control in Adult Correctional Institutions*, 71 THE PRISON J. no. 2, 17 (Fall/Winter 1991).

<sup>41</sup> AMERICAN CORRECTIONAL ASSOCIATION, *supra* note 3, at 21.

<sup>42</sup> Knox and Tromanhauser, *supra* note 40, at 17.

prisons.<sup>43</sup> Although there are no studies of the actual long-term impacts of such transfers, they continue to be utilized for the most notorious prison gang members.<sup>44</sup>

#### **D. Isolated Housing for Gang Affiliated Inmates**

Another approach taken by many states to the growing threat posed by prison gangs is to change the patterns of interaction among known gang members, between prison gangs, and between affiliated and non-affiliated inmates. An array of programmatic changes including both administrative segregation and isolation of gang members have been either undertaken or suggested. As elsewhere, there is a dismaying lack of empirical evidence to prove that any of these approaches is particularly effective (with the notable exception of a study published by the Arizona Department of Corrections which is discussed in some detail later in this section).

The segregation model is based on straightforward logic: a relatively small proportion of inmates cause a disproportionate amount of the disruption in prisons, and their behavior both endangers staff and other inmates and destabilizes the prison, increasing the likelihood that non-affiliated inmates will themselves engage in violent behavior or chose to join prison gangs. Programs differ both in terms of the groups of inmates they elect to pare off from the general prison population (such as all designated gang members or “core” gang members only) and in the types of institutions and programming they design for those inmates.

One common approach is to designate one or more Security Housing Units (“SHUs”) to hold the inmates. Pelican Bay State Prison in California, opened in 1989, was one of the first such super-maximum security facilities in the country.<sup>45</sup> The prison was intended specifically to hold extremely violent and disruptive prisoners, including “designated” prison gang members, and focuses almost exclusively on incapacitating inmates by minimizing both their movement and their interactions with other inmates and staff.<sup>46</sup> In California, prisoners designated under the gang affiliation identification procedure described above in Section II.A may be confined in an SHU for the remainder of their original sentence term unless they renounce gang membership and “debrief” (provide information on other gang members), or demonstrate that they have been an inactive gang member for at least five years.<sup>47</sup>

Arizona adopted this approach in the mid-1990s, establishing a protocol for identifying prison gangs (referred to in their institutions as “security threat groups” or “STGs”) and STG affiliates, and a Special Management Unit (“SMU,” a super-maximum security prison similar to California’s SHUs) to hold them.<sup>48</sup> Inmates designated as STG affiliates were given the option of renouncing affiliation, “debriefing” with Arizona’s STG intelligence officers (in other words, providing information on the activities of their STG and its members), and being transferred to protective custody designed to shield them from retribution by their former gangmates, or being transferred to SMU.<sup>49</sup> The SMU was designed

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<sup>43</sup> Mark S. Fleisher and Scott H. Decker, *An Overview of the Challenge of Prison Gangs*, 5 *Corrections Management Quarterly* no. 1, 8 (Winter 2001).

<sup>44</sup> See Mike Geniella, *5 Gang Leaders To Be Moved*, THE SANTA ROSA PRESS DEMOCRAT, Sept. 10, 2005, at B3 (describing transfer of five top Nuestra Familia members from the California prison system to federal prisons out-of-state).

<sup>45</sup> *A Necessary Evil?*, *supra* note 14.

<sup>46</sup> *Id.* See also Pelican Bay State Prison web site, available at [http://www.corr.ca.gov/InstitutionsDiv/INSTDIV/facilities/fac\\_prison\\_PBSP.asp](http://www.corr.ca.gov/InstitutionsDiv/INSTDIV/facilities/fac_prison_PBSP.asp) (citing detention of validated and associated gang members as a primary purpose of the facility).

<sup>47</sup> Carlson, *supra* note 13, at 16.

<sup>48</sup> ARIZONA DEPARTMENT OF CORRECTIONS, SECURITY THREAT GROUPS (STG) PROGRAM EVALUATION, 2 (2001) available at <http://www.ncjrs.org/pdffiles1/nij/grants/197045.pdf> (last accessed Nov. 16, 2005). It should be noted that although a designated purposed of the SMU was to house STG members, it also held many non-affiliated inmates who presented severe behavior problems.

<sup>49</sup> *Id.* at 2-3. Note that renunciation did not necessarily offer more attraction than SMU because the protective housing unit was also a super-max facility and therefore also much more restrictive than general population. *Id.* at 6.

to maximize incapacitation and minimize potential for violence, with inmates confined to their cells at all times except for three hours per week for showering and recreation.<sup>50</sup>

In a study covering the period from 1994 to 2000, the Arizona Department of Corrections studies rates of violence among STG members before and after they were assigned to SMU to determine what effect, if any, its STG program had. The study produced three major findings. First, and perhaps unsurprisingly, placing STG members in under extremely tight control and in near-total isolation had a strong incapacitation effect. Among all STG groups targeted by the State, assaults fell 53%, drug violations fell 76%, threats fell 58%, fighting fell 97%, and rioting fell 78%.<sup>51</sup> Interestingly, there were also significant increases in a number of areas, including weapons violations and destruction of property.<sup>52</sup> The Department of Corrections pointed out, however, that decreases were seen in the types of activity most closely correlated with STG membership, and that those categories are also the most serious and violent among the tracked violations.<sup>53</sup>

Second, the department looked at violence rates in the general population before and after removal of designated STG affiliates. Because several other anti-violence initiatives were launched during this period it is not possible to attribute changes in the violence rate specifically to initiation of the STG segregation policy.<sup>54</sup> Nonetheless, the study showed a substantial decrease among the general population in assault, drug and weapons violations, threats, rioting, and other violations, and a particularly pronounced drop in these areas among gang affiliates not assigned to SMU (either because their gangs had not been designated as STGs, or because they had yet to be designated as affiliates).<sup>55</sup>

Third, the study looked at the 14% of designated STG affiliates who elected to renounce their gang membership and debrief rather than face transfer to SMU to see if their decision to renounce had an impact on their rates of violence.<sup>56</sup> Here, the Department found that STG affiliates who renounced had greater significantly greater decreases in most violent activity than did those who refused to renounce, but that their rates of violence remained significantly higher than rates found in the general population.<sup>57</sup>

Arizona's study of its program segregating its most dangerous inmates suggests that clear, measurable improvements in prison safety result from a program like this. Although the particulars may be different, it is certainly conceivable that a study in California or other states with super-maximum security prisons would reveal a similar effect. Many are concerned, however, that this approach fails to take into account the fact that inmates housed in these high-end facilities are receiving little or no programming, and are accordingly unlikely to show improved behavior when they are transferred directly from SHU to freedom on completion of their sentences.<sup>58</sup> In addition, due to personnel and infrastructure costs SHUs are vastly more expensive to operate than standard maximum security prisons. Accordingly, California is now reconsidering its approach to seemingly incorrigible inmates who refuse to renounce gang affiliation. Plans are currently underway to create an experimental Behavior Modification Unit at High Desert State Prison, where several hundred prison gang members will be placed in integrated

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<sup>50</sup> *Id.* at 3.

<sup>51</sup> *Id.* at 31.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 36.

<sup>54</sup> *Id.* at 39, 69-70. The Department noted changes such as a policy of more swiftly moving inmates with behavior problems into higher security units (though not usually to SMU), which may have placed greater limits on their ability to act out as the study progressed, a protective segregation program to shield inmates likely to be victims of violence from the general population, and a new policy of segregating some gangs (that had not been classified as STGs) from each other to avoid violence.

<sup>55</sup> *Id.* at 75.

<sup>56</sup> *Id.* at 109. Interestingly, the study noted that renunciation rates tended to be higher in gangs with older populations, which the study suggested might reflect the impact of decreased tendencies toward violence (and hence retaliation for defection) among older inmates in general. *Id.* at 110.

<sup>57</sup> *Id.* at 113.

<sup>58</sup> *See A Necessary Evil?*, *supra* note 14.

housing with members of other gangs and provided with intensive, structured programming focusing on anger management and alternatives to violence.<sup>59</sup>

#### **E. Gang Renunciation Programs (“Deganging” Programs)**

As discussed above, the Arizona Department of Corrections offered STG affiliates the opportunity to renounce gang membership if they wished, but provided relatively little incentive to do so, as the protective housing they were offered was also super-maximum security. In 2001, Texas initiated an experimental program with the goal of actively encouraging defection from prison gangs. The Gang Renouncement and Disassociation (“GRAD”) Process is a federally funded three stage, nine month program in which gang members volunteer to enter a special housing unit where they receive intensive anger management and vocational training.<sup>60</sup> They begin the program in single cells, move up to double cells which they share with another program participant who was formerly a member of a rival gang, and are finally transferred to general population in a prison with little gang activity.<sup>61</sup> No data is yet available, but prison officials claim that very few participants have since returned to their gangs.<sup>62</sup>

In Massachusetts, a similar approach was undertaken at the Hampden County Correctional Center. There, a voluntary program requires inmates wishing to leave prison gangs to take part in discussion groups, complete homework assignments, and view instructional videos. At the close of the program, they are asked to produce a written statement confirming that they no longer wish to take part in gang activity—those willing to do so are returned to general population.<sup>63</sup> In 2001 the program had been operational for two years and had 190 current and former participants, 17 of whom had subsequently reassociated with gangs and been returned to segregated housing, but no research on its effectiveness had been conducted.<sup>64</sup>

Connecticut, too, employs a similar gang renunciation program. Like most states it has a zero tolerance policy for gang activity in its prisons, and has instituted a four phase system for dealing with verified gang members. In phase one, inmates are placed in secured housing, where after a period of time they are offered the opportunity to participate in gang renunciation. Phase two is a three to four month long educational program which participants engage in in groups of twelve, with members of many different gangs represented. In the third phase, gang members are moved into multi-person cells and must demonstrate an ability to coexist peacefully with former members of rival gangs. Finally, upon successful completion of the first three phases, the inmate graduates and is returned to general population.<sup>65</sup>

One significant challenge that faces prisoners wishing to leave gangs, and prison administrators hoping to facilitate and encourage such behavior, is the threat of retaliation by gangs against those attempting to renounce membership. In his research of Texas prison gangs, Fong found that most had membership for life in the form of “blood-in, blood-out” policies, under which a “hit” or death warrant would be issued by the gang against anyone attempting to quit.<sup>66</sup> Inmates apparently believe that these death threats will be carried out, and are acutely aware that it is difficult if not impossible to avoid all contact with other gang members, even when transfers or protective custody are offered.<sup>67</sup>

Despite their legitimate fears, Fong, et al. found in a survey of prison gang defectors that between 2.5% and 5% of gang members do eventually renounce membership. The study revealed that few defectors had advanced above the lowest (or “soldier”) rank in the gang before quitting, and that only

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<sup>59</sup> Woodford remarks, *supra* note 15.

<sup>60</sup> Robert Riggs, *State Offers Way Out for Violent Prison Gang Members* (Jul. 26, 2004), available at [http://cbs11tv.com/investigations/local\\_story\\_208180734.html](http://cbs11tv.com/investigations/local_story_208180734.html) (last accessed Nov. 16, 2005).

<sup>61</sup> Ed Timms, *Breaking Out: Texas Inmates Get Help Escaping Prison Gangs*, THE DALLAS MORNING NEWS, July 16, 2001.

<sup>62</sup> Riggs, *supra* note 60.

<sup>63</sup> Fleisher and Decker, *supra* note 43, at 7-8.

<sup>64</sup> *Id.* at 8.

<sup>65</sup> Carlson, *supra* note 13, at 20-21.

<sup>66</sup> Robert S. Fong, et al., *Blood-In, Blood-Out: The Rationale Behind Defecting From Prison Gangs*, 2 J. OF GANG RESEARCH no. 4, 46 (Summer 1995).

<sup>67</sup> Carlson, *supra* note 13, at 12.

25% admitted to having committed violent acts on behalf of the gang.<sup>68</sup> Reasons given for quitting included a loss of interest in or having “grown out of” gang activity, refusal to carry out an ordered killing or other crime, other violations of gang rules, and disagreement with the gang’s overall direction.<sup>69</sup> Carlson notes that in the Texas system, gang members renouncing membership are more likely to come from gangs that either do not have or do not enforce “blood-in, blood-out” policies.<sup>70</sup> Fear of retaliation or death provides a significant disincentive for inmates who might otherwise wish to stop associating with a prison gang, and protective custody implementations that provide more shelter to inmates trying to leave gangs without inadvertently punishing them by cutting off access to privileges must be developed if renunciation programs are to reach a significant number of prison gang members.

#### **F. Psychological Treatment for Gang Members**

All of the gang renunciation programs discussed in II.E above include an element of group discussion or therapy. The form that treatment takes is not entirely clear, but commentators argue that a therapeutic element is necessary if the violent tendencies of individual gang members are to be curbed. Davis and Flannery note that in comparison with the general prison population, inmates who join prison gangs are more likely to come from dysfunctional families, more likely to have suffered physical and sexual abuse, more likely to have substance abuse problems, and more likely to have conduct and personality disorders.<sup>71</sup> Accordingly, they propose that prison gang members might benefit from treatment under a cognitive-behavioral approach.

As Davis and Flannery describe it, the cognitive-behavior approach begins with the assumption that gang members have a disordered way of perceiving and interacting with the world around them. Cognitive-behavioral therapy attempts to address this in three steps: first, the inmate must become aware of his or her own thought process; second, the inmate must objectively evaluate the accuracy and validity of his or her thoughts; and third, the inmate must learn to catch inaccurate or incorrect thoughts and correct them.<sup>72</sup> As an example, Davis and Flannery describe a typical prison gang member who sees someone he believes is laughing at him and feels compelled to attack the person to avenge the perceived slight. Through cognitive-behavioral therapy, he would come to recognize that his perception that the laughter is directed at him may be flawed, and that the proper response is to brush off the slight rather than acknowledge it. Likewise, cognitive-behavioral therapy might help a gang member better understand his misconception that the gang is a functional “surrogate family” which is providing valuable support to its members.<sup>73</sup> Cognitive-behavioral therapy has apparently proven successful in other applications within prisons, so although its effectiveness in this particular aspect has not been demonstrated, there is reason to hope that it could prove useful in gang renunciation programming.

#### **G. Gang-Free Prisons and Yards**

One final possibility that has been discussed and in at least one case attempted is the establishment of entire gang-free prisons, or at least portions of prisons that are designated gang free.

In 1996 the Illinois Department of Corrections, which is faced with a unique and challenging prison system where a vast majority of inmates are members of street gangs that continue to operate within the prisons, initiated a trial project in which an existing minimum security prison was transformed into a designated gang-free minimum security prison. The project began with three initial goals: “to establish a gang free environment; provide safe, secure, and humane living and working conditions for inmates and staff; and assist these offenders in making lifestyle changes.”<sup>74</sup> The program also established

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<sup>68</sup> Fong et al., *supra* note 66, at 47.

<sup>69</sup> *Id.* at 48.

<sup>70</sup> Carlson, *supra* note 13, at 17.

<sup>71</sup> Mark S. Davis and Daniel J. Flannery, *The Institutional Treatment of Gang Members*, 5 CORRECTIONS MANAGEMENT QUARTERLY no. 1, 39-41 (Winter 2001).

<sup>72</sup> *Id.*, 42.

<sup>73</sup> *Id.*

<sup>74</sup> Illinois Criminal Justice Information Authority, *Taylorville Correctional Center Gang-Free Environment*, 2 ON GOOD AUTHORITY no. 7 (1999).

three “controls” necessary to achieve its mission: “control the internal sources of gang power by eliminating gang members, gang structures, and gang activity; control the external sources of gang power by controlling contraband commodities and associated behaviors; and control gang affiliation by effecting changes in the individual inmates’ decision-making process.”<sup>75</sup> When the prison initially went “gang-free,” all gang affiliated inmates were transferred to other institutions, and an equivalent number of minimum security inmates who had no gang association, affiliation, or membership were brought in. Subsequently, prisoners coming into the system were permitted to request placement at the facility if they qualified.<sup>76</sup>

Positive results were charted in certain areas following the change-over: disciplinary reports and inmate grievances decreased, and the amount of good-time credit revoked also went down. Surveys showed no indication, however, that inmates who were there through the transition period felt safer, however, nor were they more satisfied with the programs offered after the prison became gang-free. Specifically, inmates felt that the gangs had not been particularly aggressive in the prison beforehand, but that they had kept the guards in line. Inmates who voluntarily came to the prison after the change were significantly more positive about the prison’s level of safety, though they too complained about the programming. Interestingly, staff at the prison reported that they felt much safer on the job, and that their sense of job satisfaction had increased.<sup>77</sup>

Unfortunately, the applicability of Illinois’s experiment may be somewhat limited here, as it took place in a minimum security prison where the gangs were relatively well behaved. One might anticipate that inmates would feel a greater increase in safety in a maximum security gang-free prison, because gangs are demonstrably responsible for a large portion of the violence that occurs in standard maximum security prisons. Moreover, the Illinois prison was open only to inmates who had *never* had gang associations—at the time of the studies cited here, they were considering but had not adopted a “Flag Droppers” program to bring in former gang members who wished to renounce membership.<sup>78</sup> Although introduction of such a program might entice some inmates to leave their gangs by housing them where retaliation would be less likely, it would also make it more difficult to maintain the prison’s gang-free status.<sup>79</sup> Without such a “Flag Droppers” program, however, it is difficult to ascertain how establishing a gang-free prison would address the overall problem of prison gang proliferation.

California itself has attempted a somewhat more modest program with the same basic concept, apparently with some success. A few years ago, CDCR instituted new “sensitive needs yards,” which are recreation areas designated as gang-free zones, and open only to prisoners who indicate a serious intention not to be involved in violent conduct. Now, according to CDCR’s Director, approximately 30% of inmates have requested access to sensitive needs yards.<sup>80</sup> Although sensitive needs yards were not designed with former gang members in mind, they have since been opened to inmates who renounce membership and take part in debriefing. As of 2003, a prison spokesperson noted that ex-gang members made up only a small proportion of sensitive needs yards users.<sup>81</sup>

### III. CONCLUSION: WHERE SHOULD CALIFORNIA GO FROM HERE?

As mentioned at the outset, the threats prison gangs pose to correctional institutions are well recognized, but solid, reliable studies of the effectiveness of the various responses administrators have tried have not been produced. This is somewhat disheartening, as it means that if a truly effective long-term solution to the prison gang problem has been discovered, it has yet to be documented. It does not

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<sup>75</sup> *Id.*

<sup>76</sup> Beverly D. Rivera, et al., *An Exploratory Study of Institutional Change: Personal Control and Environmental Satisfaction in a Gang-Free Prison*, 83 THE PRISON J. no. 2, 152 (June 2003).

<sup>77</sup> Illinois Criminal Justice Information Authority, *supra* note 74.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Woodford remarks, *supra* note 15.

<sup>81</sup> Senate Select Committee on the California Correctional System, *supra* note 12.

mean, however, that the corrections community is back at square one with prison gangs. As described in Section II above, a number of attempts at controlling prison gangs have been made over the past few decades, and some of them continue to show legitimate promise. In the remainder of this paper I will briefly touch upon the approaches that California should continue adopting or expanding.

CDCR has a strong and well established system of gathering information on inmates and classifying their level of involvement with gangs based on a clear set of guidelines. In combination with its dedicated investigatorial staff, the state corrections system appears to be doing a good job of identifying and tracking gang activity in prisons. As noted above, it is the *level* of involvement with a gang, as much as whether or not an inmate is involved with a gang at all, that has most predictive power in terms of proclivity to commit infractions and behave violently. It is important, therefore, that CDCR continue to refine the capacity of its information gathering and tracking systems to differentiate between various levels of gang involvement.

I was unable to determine through my research exactly how the state is handling investigation and prosecution of crimes committed inside correctional facilities. New York and Texas have had substantial success reducing rates of violent crime by substantially ramping up law enforcement efforts *within* prisons and jails. I would argue that because a desire for protection is one reason that inmates join gangs, anything CDCR can do to increase prisoner safety, be it increased enforcement efforts, installation of additional video monitoring (coupled with serious pursuit of crimes captured on tape), increased staffing, or decreasing prison crowding, should also decrease the incentives that drive inmates to prison gangs in the first place.

California currently transfers at least some of its most troublesome prison gang members out of state, with the hope of disrupting their operations and driving gang leadership back underground. In the short term this may prove effective, but there is no data suggesting that transfer of particular leaders has ever done permanent harm to a prison gang, and the anecdotal evidence suggests that gangs generate new leadership quickly, while the transferred leaders may be able to expand a gang's power into a new prison. It thus seems that the State would do best to avoid relying on transfers except in the most extreme cases, and to instead focus on other means of discouraging gang leadership.

California took a strong lead in developing SHUs when it brought Pelican Bay online in 1989. As the study conducted in Arizona's prisons suggests, SHUs can have a substantial positive impact on violence levels in prisons. This is not surprising—their intent, after all, is to pull the most violent members of the prison community out and place them in nearly complete isolation for the length of their prison sentence. Unfortunately, SHUs also have two significant costs: first, because of elevated staffing and special infrastructure requirements they are much more expensive to build and operate than standard maximum security prisons, and second, because they offer minimal programming and place already dangerous inmates in conditions that do little to improve their stability, SHUs do not adequately prepare those inmates for release into the community. Although their impact on prison gang membership levels has not been studied, it is certainly possible that locking up large numbers of gang members has had some negative impact on recruitment. On the other hand, given that the costs are so evident, a fuller understanding of the benefits would be necessary to determine whether SHUs are, in fact, worthwhile. There is simply not enough data to make an informed determination, but it appears that SHUs are very useful with extremely violent and unstable prisoners. It may not be worth the cost however, in both financial and human terms, to continue sending all “designated” prison gang members to SHU.

The various gang renouncement programs that have come into being in the past ten years all show some level of promise, though as elsewhere there is no real data with which to evaluate their success so far. On the upside, Texas, Connecticut and Massachusetts all seem satisfied with the initial progress these programs have made. On the downside, Fong's research, cited in Section II.E above, suggests that the most likely defectors may be low level gang members with peripheral involvement and relatively little involvement in violent crime. Although any success in peeling away gang members is worth something, and may help diminish the perceived power of gangs within the prison system, if gang reduction is to truly cut violent crime within prisons, programming that will get at the more hardened gang members will also be needed. In this regard, California's plans for a Behavior Modification Unit at High Desert sound

promising. Although it is too soon to say whether forced renunciation will work, the intensive programming and forced integration planned for High Desert seems more likely to strike at the heart of the prison gangs than do voluntary programs such as those discussed here.

As far as what *types* of programming will best serve to dissuade inmates from joining gangs, or convince gang members to quit, there is again no empirical evidence to point to. Davis and Flannery make a compelling argument for the use of intensive cognitive behavioral therapy as part of any renunciation program. And again, the High Desert model of intensive programming appears well founded, in that it will keep inmates occupied, provide a sense of coherence, and encourage a constant awareness of the administration's control over the prisoners and the prison.

Finally, gang-free prisons are an interesting concept, but the limited trial in Illinois was insufficient to suggest that they would be either necessary or useful in California. Special prisons for renounced gang members would make greater sense, assuming that they could be designed and operated in such a way that inmates would truly feel safe from retribution by their former gang mates. California already has a similar program in its sensitive needs yards, and expansion and enhancement of that program might prove equal incentive to gang members considering renouncing than establishment of an entire new prison, without taking on the additional costs that would entail.

California is often cited as the birthplace of America's prison gangs. Now, California has the opportunity to exercise leadership in a more positive manner, by continuing to enhance its understanding of the gangs within its prisons, by continuing to expand programs that appear to be working well, such as the sensitive needs yards, and by continuing to introduce new and innovative approaches to the problem, such as the intensively programmed Behavioral Modification Unit at High Desert. Most of all, however, the State needs to ensure that it is accurately documenting and analyzing the successes and failures of these programs. Only in this way will California be able to learn from its own successes and failures, and best expend its limited corrections funds to keep the public and its staff safe, and to carry out its dual roles of correcting and rehabilitating its inmates.