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### Your Responsibility When Using the Information Provided Below:

When we wrote this Informational Material we did our best to give you useful and accurate information because we know that prisoners often have difficulty obtaining legal information and we cannot provide specific advice to all the prisoners who request it. However, the laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in your institution law library.

## **SECURITY THREAT GROUP (GANG) VALIDATION, PLACEMENT, AND DEBRIEFING**

Revised January 2024

We are sending this information in response to your questions or concerns about the California Department of Correction and Rehabilitation's (CDCR's) gang validation, housing, and/or debriefing policies. We do not have the resources to provide individual responses to everyone who seeks our assistance. This information explains how the CDCR can validate (officially label) a person as an STG member or associate, what happens when someone is validated, and how someone may get a validation removed. We hope that it will help answer your questions.

CDCR's term for prison and street gangs is Security Threat Groups (STGs). CDCR has rules about the validation and placement of people who are involved in STGs (STG "affiliates") in Title 15 of the California Code of Regulations. "Validation" is CDCR's term for the process of officially labelling a person as someone who is involved with an STG as either a member or associate.<sup>1</sup>

CDCR's STG policies have changed many times over the decades. Most notably, in the early 1990s, CDCR began housing all prison gang affiliates in Pelican Bay State Prison's Security Housing Unit (SHU). In 1995, a federal court held that placing people with mental illnesses in that unit was cruel and unusual punishment.<sup>2</sup> In 2011 and 2015, CDCR entered into settlement agreements that resulted in new limits on gang validations and on placing gang affiliates in segregated housing.<sup>3</sup> In 2022, the Governor directed CDCR to develop new regulations that would further reduce the number

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<sup>1</sup> Cal. Code Regs., tit. 15, § 3378.2.

<sup>2</sup> *Madrid v. Gomez* (1995) 889 F.Supp. 1146.

<sup>3</sup> *Castillo v. Alameida* (U.S.D.C. N.D. Cal.) No. C-94-2847-MJJ-JCS, Settlement Agreement dated September 2004; *Ashker v. Governor of California* (U.S.D.C. N.D. Cal.) No. 4:09-cv-05796-CW, Settlement Agreement filed Sept. 1, 2015; see also *Ashker v. Governor of California* (9th Cir. 2023) 81 F.4th 863 (terminating the settlement agreement).

of people placed in solitary confinement.<sup>4</sup> In late 2023, CDCR issued new emergency rules that again changed some STG policies. This letter discusses the rules that are in effect as of January 2024. We will update this letter when we learn of any significant changes to CDCR’s STG rules or policies.

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### 1. What are the Criteria for Validating Me as an STG Member or Associate?

CDCR defines Security Threat Group (STG) as “any ongoing formal or informal organization, association, or group of three or more persons which has a common name or identifying sign or symbol whose members and/or associates, individually or collectively, engage or have engaged, on behalf of that organization, association or group, in two or more acts which include, planning, organizing, threatening, financing, soliciting or committing unlawful acts, or acts of misconduct.”<sup>5</sup> CDCR recognizes two categories of STGs. STG-I is the category for prison gangs and groups that pose the most severe threat to safety and security based on a history of violence and/or influence over others. STG-II is the category for street gangs and groups who are under the more dominant STG-I

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<sup>4</sup> Governor Newsome, Statement on Vetoing Assembly Bill 2632, dated Sept. 29, 2022.

<sup>5</sup> Cal. Code Regs., tit. 15, § 3000.

groups.<sup>6</sup> There is a process for CDCR to officially “certify” a group as an STG-I or “recognize” a group as an STG-II.<sup>7</sup>

CDCR rules forbid participation in STG-related behavior. There is a chart of actions that qualify as STG behavior when there is a nexus (link) between the action and an STG. The chart also states which STG behaviors are serious rule violations (punishable by loss of conduct credits) and which are administrative rule violations. For a rule violation to be deemed “STG-related,” the hearing officer must state their reasons for finding that the rule violation is linked to an STG.<sup>8</sup>

CDCR recognizes several different levels of STG affiliation. An STG member is someone who has been accepted into membership of the STG. An STG associate is someone who is involved periodically or regularly with members or associates of an STG. An STG suspect is someone who appears to be involved periodically or regularly with members or associates of a STG, but who has not been validated as an STG associate or member. An STG Dropout is a former STG member or associate who is officially recognized as no longer being involved in the STG.<sup>9</sup>

CDCR staff must have certain amounts and types of information before they can validate you as an STG member or associate. Different types of “source items” weigh more or less heavily toward validation:

- ◆ Two points: symbols (e.g., hand signs, graffiti, or clothing that are distinctive to an STG); written materials indicating involvement in STG behavior that are not in your personal possession (e.g., membership or enemy lists)
- ◆ Three points: information about association with validated STG affiliates; information from informants about STG behavior (but validation cannot be based solely on hearsay informant statements); debriefing reports
- ◆ Four points: written materials indicating involvement in STG behavior that are in your own possession; photos with STG insignia, symbols or validated STG affiliates; CDCR staff observations of STG behavior; information from other agencies identifying STG affiliation; visits from people known to promote or assist STG activities; communications indicating SGT activity (e.g., phone conversations, mail, notes)
- ◆ Five points: self-admission to being involved in an STG

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<sup>6</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3023(d); Cal. Code Regs., tit. 15, § 3378.1(c).

<sup>7</sup> Cal. Code Regs., tit. 15, § 3378.1(d)-(e).

<sup>8</sup> Cal. Code Regs., tit. 15, § 3023; Cal. Code Regs., tit. 15, § 3378.4. see also Cal. Code Regs., tit. 15, § 3315(a). If CDCR staff get new information about a link to an STG after the rule violation has been heard, and you are serving a Determinate RHU Term for that rule violation, the Chief Disciplinary Officer can order the rule violation reissued and reheard to decide whether it was STG-related. Cal. Code Regs., tit. 15, § 3378.4(b).

<sup>9</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3023(d); Cal. Code Regs., tit. 15, § 3378.2(b).

- ◆ Six points: offenses where the circumstances show the offense was committed for benefit or promotion of, at the direction of, or in association with an STG; STG tattoos or body markings
- ◆ Seven points: legal documents indicating STG behavior.<sup>10</sup>

Source items can date from any time, except that photographs must be no more than four years old.<sup>11</sup>

To validate you as an STG member or associate, CDCR staff must have at least three independent source items with a combined value of 10 points or greater, “coupled with information/behavior indicative of” membership or association.<sup>12</sup> In addition, to validate you as an STG-1 member or associate, at least one of the source items must be a “direct link” to a current or former validated STG-1 member or associate or to someone who was validated as an STG-1 member or associate within six months after the date of the the source item. There does not need to be evidence that you knew the person was an STG-I member or associate.<sup>13</sup>

If you are validated as an STG associate, CDCR may change your validation to STG member based on at least three source items with a combined value of 10 points. Those source items must not have been used when you were validated as an STG associate, and at least three of the source items must indicate that you are an STG member.<sup>14</sup>

## 2. What is the Process for Validating Me as an STG Member or Associate?

If prison staff receive information that you may be involved in STG activities, an STG Coordinator/Investigator will review that information. If there appears to be sufficient reliable evidence that you are an STG member or associate, the STG Investigator will prepare a validation package with all of the STG source items.<sup>15</sup>

To go ahead with a validation, the STG Investigator must provide you with a CDCR Form 128-B4 Evidence Disclosure and Interview Notification describing the source items and notifying you that you will be interviewed. The STG Investigator must provide you with a copy of all non-confidential documents being relied upon for the validation, unless you request otherwise in writing.

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<sup>10</sup> Cal. Code Regs., tit. 15, § 3378.2(b)(1)-(14).

<sup>11</sup> Cal. Code Regs., tit. 15, § 3378.2(b); see *In re Alvarez* (2013) 222 Cal.App.4th 1064 [166 Cal.Rptr.3d. 271].

<sup>12</sup> Cal. Code Regs., tit. 15, § 3378.2(b). Multiple sources providing information about a single STG-related act or conduct count as only one source item. Cal. Code Regs., tit. 15, § 3378.2(b).

<sup>13</sup> Cal. Code Regs., tit. 15, § 3378.2(b). A “direct link” is “any connection” between you and any person validated as an STG-I member or associate. Cal. Code Regs., tit. 15, § 3000. Also, the rules say that CDCR can validate “any person” as an STG member or associate, including people who are not incarcerated in CDCR. Cal. Code Regs., tit. 15, § 3378.2(b).

<sup>14</sup> Cal. Code Regs., tit. 15, § 3378.2(b).

<sup>15</sup> Cal. Code Regs., tit. 15, § 3378(a)-(c).

Staff must identify any source item being relied upon as a “direct link” and identify the person who is the link unless doing so would endanger the safety of that person or other people.” If the STG Investigator is relying on any confidential information, staff must provide you with a CDCR Form 1030 Confidential Information Disclosure Form with a general description of the information and reasons why staff think the information is reliable.<sup>16</sup>

Staff must give you the CDCR Form 128-B4 notification at least 72 hours before the STG Investigator interviews you, unless you agree in writing to waive (give up) that right.<sup>17</sup> You should be assigned a Staff Assistant (SA) for the interview and further proceedings if you have difficulty communicating or understanding because you have a mental illness or disability or you do not speak or write English well.<sup>18</sup> At the interview, the STG Investigator must give you a meaningful opportunity to give your statements and positions about the source items.<sup>19</sup> The STG Investigator must then write a CDCR Form 128-B5 Security Threat Group Validation Chrono with a report about the interview and conclusions about which source items do or do not support a validation.<sup>20</sup> You should receive a copy of the CDCR Form 128-B5 within 14 calendar days after the interview.<sup>21</sup>

After the interview, the validation package will be submitted to CDCR’s Office of Correctional Safety (OCS) for review. The OCS will decide which source items can be relied upon and which are rejected, including whether any confidential information meets CDCR’s reliability criteria. The OCS will then make a recommendation to approve or reject the proposed validation. OCS must document their decisions on a CDCR Form 128-B2 Security Threat Group Validation/Rejection Review.<sup>22</sup>

If OCS recommends approving the validation, your case will then be sent to the prison (or parole region) where you are housed. A Classification and Parole Representative (C&PR) must review

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<sup>16</sup> Cal. Code Regs., tit. 15, § 3378.2 (c)(1). The confidential information reliability criteria are in Cal. Code Regs., tit. 15, § 3321(c): information previously supplied by the informant has proven to be true; other confidential sources have independently provided the same information; the information incriminates the source; the information is corroborated through investigation or information from non-confidential sources; the confidential source is the victim of a related rule violation; or the source has successfully completed a polygraph examination. See also *Zimmerlee v. Keeney* (9th Cir. 1987) 831 F.2d 183, 186 (requiring that notice of confidential information include statement that safety considerations prevent disclosure of informant’s name).

<sup>17</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(2).

<sup>18</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(3); see also Cal. Code Regs., tit. 15, § 3318 (staff assistant criteria).

<sup>19</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(4); see also Cal. Code Regs., tit. 15, § 3318 (staff assistant criteria).

<sup>20</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(5).

<sup>21</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(5).

<sup>22</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(6)-(7).

the Form 128-B2 and note on the face of every source item whether that document met the validation requirements.<sup>23</sup>

If you are in prison, the STG Investigator must schedule you for a hearing in front of the STG Unit Classification Committee (UCC) within 30 days after the Investigator receives the CDCR Form 128-B5.<sup>24</sup> An Investigative Employee (IE) will be assigned to assist you in preparing for the hearing and in interviewing witnesses.<sup>25</sup> At the hearing, the STG UCC will review the validation package and make the final decision about whether the validation package meets all due process requirements and whether to accept the validation; the decision will be documented on a Classification Committee Chrono.<sup>26</sup>

After the STG UCC makes its decision, a Classification Services Representative (CSR) will audit the validation for accuracy and compliance with CDCR rules. The CSR will either approve the validation, return the case for corrections, or defer the validation.<sup>27</sup>

The validation will be shown on your classification documents as Administrative Determinant ST1 or ST2, depending on whether you are validated as an affiliate of an STG-1 or STG-2.<sup>28</sup>

### **3. Can I Be Placed in an RHU Due to My STG Validation?**

CDCR shall not place you in a Restricted Housing Unit (RHU) based solely on your STG validation.<sup>29</sup> Also, there no longer is a special Step-Down Program (SDP) for housing people in restrictive housing for extended periods of time due to STG-related rule violations. Instead, your housing will be determined by the same factors as for people who do not have an STG validation. This means you can be placed in an RHU only if you meet the usual criteria for “administrative segregation,” a Determinate SHU Term, or an Administrative SHU Term.

#### “Administrative Segregation”

You can be placed in an RHU whenever keeping you in general population presents an immediate threat to your safety or the safety of others, endangers institution security, or jeopardizes

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<sup>23</sup> Cal. Code Regs., tit. 15, § 3378.2(c)(7).

<sup>24</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3378.2(c)(7), (d); see also Cal. Code Regs., tit. 15, § 3376(c)(4) (an STG UCC shall consist of a Captain, a Correctional Counselor II or alternate, a Correctional Counselor I, and other staff as required).

<sup>25</sup> Cal. Code Regs., tit. 15, § 3378.2(d).

<sup>26</sup> Cal. Code Regs., tit. 15, § 3378.2(d); Cal. Code Regs., tit. 15, § 3376(d)(5).

<sup>27</sup> Cal. Code Regs., tit. 15, § 3378.2(d)(2).

<sup>28</sup> Cal. Code Regs., tit. 15, § 3375.2(b)(25)-(26).

<sup>29</sup> Cal. Code Regs., tit. 15, § 3335(a); Cal. Code Regs., tit. 15, § 3378.2(b). Note that in the past, CDCR had several types of restrictive housing (ASU, SHU, PHU), but starting in November 2023 CDCR began using the term RHU for all restricted housing.

an investigation of alleged serious misconduct or criminal activity. If the placement is for reasons that are not due to any misconduct by you, then you will be on Non-Disciplinary Restricted Housing (NDRH) status.<sup>30</sup>

#### Determinate RHU Term

For some types of rule violations, you can be punished by a Determinate (set-length) RHU Term, regardless of whether or not the rule violation involved STG-behavior.<sup>31</sup>

#### Administrative RHU Term

You can be assessed an indeterminate-length Administrative RHU Term if you cannot be housed in general population because:

- ◆ you have just finished a Determinate RHU Term and there is overwhelming evidence that you pose an immediate and on-going threat to safety or security, or
- ◆ you have had three or more RHU (or SHU) terms within the past five years and there is substantial justification for keeping you in RHU because you pose an on-going threat to safety or security, or
- ◆ you are currently serving an Administrative RHU Term, and keeping you in RHU is necessary due to overwhelming evidence that you pose an immediate threat to safety or security or that you have a disciplinary history of three or more RHU terms within the past five years.<sup>32</sup>

Only CDCR's Departmental Review Board (DRB) can impose an Administrative RHU Term.<sup>33</sup> If you receive an Administrative RHU Term, the ICC must review your placement at least every 180 days to consider releasing you from the RHU. If the ICC keeps you in RHU the DRB must review your case every year to consider the availability of alternative housing, evidence of behavioral change, and your willingness to comply with CDCR rules. If the DRB keeps you in Administrative RHU, it must explain its reasons.<sup>34</sup>

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<sup>30</sup> Cal. Code Regs., tit. 15, § 3335.

<sup>31</sup> Cal. Code Regs., tit. 15, § 3337-§ 3338. However, note that if you participate in an STG-related riot, disturbance, or strike, you can get a Determinate RHU term for your first offense. For participation in a riot, disturbance, or strike that is not STG-related, you cannot get a Determinate RHU Term unless you commit two violations within a 12-month period. Cal. Code Regs., tit. 15, § 3337(g)(5)(B).

<sup>32</sup> Cal. Code Regs., tit. 15, § 3339.

<sup>33</sup> Cal. Code Regs., tit. 15, § 3339.

<sup>34</sup> Cal. Code Regs., tit. 15, § 3341(b).

#### **4. If I am Validated as an STG Member or Associate, Can I Drop Out of the STG?**

If you are validated as an STG member or associate, you can debrief to officially drop out of the STG, which will change your CDCR classification status to STG-1 Dropout or STG-II Dropout.<sup>35</sup> Your participation in debriefing must be voluntary, and you can end the debriefing process at any time.<sup>36</sup>

The purpose of debriefing is to provide staff with information about the STG's structure, activities, and affiliates, and not for acquiring incriminating evidence against you.<sup>37</sup> Information about other incarcerated people that you provide during debriefing will be placed in those peoples' files and can be used against them, such as to validate them, find them guilty of rule violations, or show they are unsuitable for parole.<sup>38</sup> The information you provide may be deemed confidential and your identity as the source will not be disclosed if revealing your identity would endanger your safety or the safety of someone else.<sup>39</sup>

Debriefing usually is a two-step process: an interview phase (Phase I) and an observation phase (Phase 2).<sup>40</sup>

##### Debriefing Phase 1

When the STG Coordinator or Investigator gets notice that you want to debrief, they should immediately make sure that you are housed safely.<sup>41</sup> The STG Investigator should then conduct an initial debriefing intake interview with you within five business days.<sup>42</sup> If you make a self-incriminating statement during the debriefing interview, the Investigator may stop the discussion and move to another topic. You must waive (give up) your right against self-incrimination before any further questioning about the incriminating matter. If you decide to exercise your right not to incriminate yourself, your decision shall not be considered in evaluating whether you successfully participated in debriefing.<sup>43</sup>

In Phase 1, you also must write an autobiography of your STG involvement. After your intake interview is reviewed by the ICC, the STG Investigator will issue autobiography instructions and give you 30 days to complete the autobiography; an extension may be granted if unusual circumstances prevent you from meeting the deadline. The completed autobiography will be collected by the prison's

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<sup>35</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3023(d); Cal. Code Regs., tit. 15, §3378.5.

<sup>36</sup> Cal. Code Regs., tit. 15, § 3378.5(e).

<sup>37</sup> Cal. Code Regs., tit. 15, § 3378.5(b).

<sup>38</sup> See Cal. Code Regs., tit. 15, § 3378.6.

<sup>39</sup> Cal. Code Regs., tit. 15, § 3321(a).

<sup>40</sup> Cal. Code Regs., tit. 15, § 3378.5(a).

<sup>41</sup> Cal. Code Regs., tit. 15, § 3378.5(f).

<sup>42</sup> Cal. Code Regs., tit. 15, § 3378.5(f).

<sup>43</sup> Cal. Code Regs., tit. 15, § 3378.5(e).



STG Lieutenant and sent to the Office of Correctional Safety (OCS) Gang Intelligence Operations (GIO) Lieutenant.<sup>44</sup>

The OCS staff will present your autobiography to the Debrief Intake Panel (DIP), which is a committee that evaluates debriefing cases, places each case in one of two categories, and assigns an Investigator to complete a debrief report. The two categories of cases are:

- ◆ Category 1 is for complex debriefs; this is typically for people who have held high rank in the STG, committed serious criminal activities or Division A or B rule violations for the STG, and/or have an extensive STG history. Debrief reports for this category be assigned to the OCS GIO and should normally be completed within 90 business days.
- ◆ Category 2 is for less complex debriefs that do not meet the Category 1 criteria. Debrief reports for this category will be assigned to a prison STG investigator and should normally be completed within 60 business days.<sup>45</sup>

The ICC will decide where to house you during the Phase I debriefing process to ensure that you are safe.<sup>46</sup> Most people who have completed their initial interview are transferred to a Debrief Processing Unit (DPU).<sup>47</sup> However, there are some exceptions. If you have medical, mental health, mobility, or other case factors that cannot be accommodated in a DPU, you should be allowed to complete the debriefing process in housing that is appropriate to meet your needs.<sup>48</sup> If you are in an RHU for a pending rule violation charge that has been referred to a District Attorney for possible criminal prosecution, you will stay in RHU for the length of any potential Determinate RHU Term you could receive when your rule violation charge is heard.<sup>49</sup> If you are serving a Determinate RHU Term, you will be kept in the RHU until you finish that term, and then you will be considered for transfer to a DPU.<sup>50</sup> If you have an Administrative RHU Term, you can be considered for transfer to a DPU at any time, but if the DRB has maintained “transfer control,” then the DRB must make the final decision about whether you are transferred to a DPU.<sup>51</sup> If you are awaiting a hearing before the Board of Parole Hearings (BPH), you will stay where you are until the BPH process is completed.<sup>52</sup>

When you are in a DPU, you initially will be on “pre-DIP status” and assigned to a work group and privilege group consistent with being on Non-Disciplinary Restricted Housing (NDRH).<sup>53</sup>

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<sup>44</sup> Cal. Code Regs., tit. 15, § 3378.5(f)-(g).

<sup>45</sup> Cal. Code Regs., tit. 15, § 3378.5(h).

<sup>46</sup> Cal. Code Regs., tit. 15, § 3378.5(f).

<sup>47</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3378.5(a); Cal. Code Regs., tit. 15, § 3378.7.

<sup>48</sup> Cal. Code Regs., tit. 15, § 3378.7(c).

<sup>49</sup> Cal. Code Regs., tit. 15, § 3378.5(f)(3).

<sup>50</sup> Cal. Code Regs., tit. 15, § 3341(f)(1), (3).

<sup>51</sup> Cal. Code Regs., tit. 15, § 3341(f)(1)-(2).

<sup>52</sup> Cal. Code Regs., tit. 15, § 3378.5(f)(2).

<sup>53</sup> Cal. Code Regs., tit. 15, § 3378.7(d)-(e). See also 15 CCR § 3044(b)(5), (b)(7)(D), (b)(8)(E) (person

However, you will be on Maximum Custody, have “Walk Alone” yard access, and be limited to non-contact visits (though family visiting may be allowed), with some access to self-betterment programs and in-cell education.<sup>54</sup> After the DIP accepts your autobiography (“post-DIP status”), you will have an ICC hearing within 10 calendar days for assignment to housing for the rest of the debriefing process. Your work group and privilege group will be set at whatever they were prior to your placement in restricted housing, you will be considered for double cell housing, you will be able to have contact visits, and you will be assigned a yard group.<sup>55</sup>

If you start the debriefing process but then refuse or fail to complete the process, you will be placed in an RHU pending review of potential safety concerns and an ICC hearing to decide where you should be housed.<sup>56</sup>

If you are found guilty of a rule violation while you are in the DPU, the ICC will decide whether to keep you in the DPU, transfer you to other housing, or refer you to the DRB for further consideration of where you should be housed.<sup>57</sup>

### Debriefing Phase 2

Debriefing Phase 2, the observation phase, begins when the DIP accepts your autobiography and the ICC changes your status to Post-DIP. The observation phase should last no more than six months as long as you are actively participating in program activities.<sup>58</sup> The purpose of the observation period is to ensure that you will be able to program in a general population setting.<sup>59</sup>

During the time you are in the observation phase, you most likely will be housed in a Transitional Housing Unit (THU).<sup>60</sup> Alternatively, you can complete the observation phase in DPU housing if that is necessary due to enemy, medical, or other special concerns.<sup>61</sup> Other housing

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in an RHU usually on Work Group D-1, except but people on NDRH status who were in Group F or Group M prior to RHU placement retain those work groups). Note that if you transfer to the DPU from a Restricted Custody General Population (RCGP) unit, you will keep the Work Group and Privilege Group you had in the RCGP. Cal. Code Regs., tit. 15, § 3378.7(f)(e)(2), (f)((1)(A)(2).

<sup>54</sup> Cal. Code Regs., tit. 15, § 3378.7(d)-(e).

<sup>55</sup> Cal. Code Regs., tit. 15, § 3378.7(d), (f).

<sup>56</sup> Cal. Code Regs., tit. 15, § 3378.5(g).

<sup>57</sup> Cal. Code Regs., tit. 15, § 3378.7(g).

<sup>58</sup> Cal. Code Regs., tit. 15, § 3378.5(a); Cal. Code Regs., tit. 15, § 3378.7(b).

<sup>59</sup> Cal. Code Regs., tit. 15, § 3378.8(a).

<sup>60</sup> Cal. Code Regs., tit. 15, § 3378.5(c); Cal. Code Regs., tit. 15, § 3378.8; see also Cal. Code Regs., tit. 15, § 3000. However, people in women’s prisons will be assigned to regular general population. Cal. Code Regs., tit. 15, § 3378.8(a).

<sup>61</sup> Cal. Code Regs., tit. 15, § 3378.5(c); Cal. Code Regs., tit. 15, § 3378.7(h).

placements can be authorized if your medical, mental health, mobility, or other case factors cannot be accommodated in a THU or DPU.<sup>62</sup>

A THU is a general population unit, but you will be housed separately from the regular general population.<sup>63</sup> During the time you are in a THU, you will be in Work Group A-1 and Privilege Group A.<sup>64</sup>

If you commit any rule violations in a THU, the ICC will decide whether to keep you in a THU, place you in some other housing, or refer you to the DRB for further consideration of your housing.<sup>65</sup>

The OCS will decide whether and when you have completed Phase II of the debriefing, and will document the decision on a Classification Committee Chrono.<sup>66</sup> If you complete the Phase II program, successfully, CDCR will consider you to be an STG Dropout.<sup>67</sup> You will be referred to a classification committee for transfer to housing consistent with your placement score and other case factors.<sup>68</sup>

If you refuse or fail to complete the debriefing process, you will be referred to a classification committee, which will determine your housing and program or will refer your case to the DRB for further housing consideration.<sup>69</sup>

## **5. Where Can I Be Housed If I Have Safety Issues Due to Dropping Out of an STG?**

You can be housed in a Restrictive Custody General Population (RCGP) unit if there would be a substantial threat to your safety if you were placed in a regular general population unit. An RCGP placement must be authorized by the DRB<sup>70</sup>

If you qualify for an RCGP placement, but you have medical, mental health, mobility, or other case factors that cannot be accommodated in the RCGP, officials from classification and healthcare

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<sup>62</sup> Cal. Code Regs., tit. 15, § 3378.8(f).

<sup>63</sup> Cal. Code Regs., tit. 15, § 3000 (definition of “Transitional Housing Unit”); Cal. Code Regs., tit. 15, § 3378.8.

<sup>64</sup> Cal. Code Regs., tit. 15, § 3378.8(d).

<sup>65</sup> Cal. Code Regs., tit. 15, § 3378.7(g); Cal. Code Regs., tit. 15, § 3378.8(c)(2).

<sup>66</sup> Cal. Code Regs., tit. 15, § 3378.8(a)(1).

<sup>67</sup> Cal. Code Regs., tit. 15, § 3000.

<sup>68</sup> Cal. Code Regs., tit. 15, § 3378.5(d); Cal. Code Regs., tit. 15, § 3378.8(e).

<sup>69</sup> Cal. Code Regs., tit. 15, § 3378.8(e).

<sup>70</sup> Cal. Code Regs., tit. 15, § 3000; Cal. Code Regs., tit. 15, § 3378.9.

will decide where to house you. You should receive the same privileges as if you were in the RCGP, unless that will create a significant security concern.<sup>71</sup>

When you are in an RCGP, the ICC will assign you to a Work Group and Privilege Group under the normal rules for your case factors.<sup>72</sup> However, there will be more restrictions on movement and programming than in a regular general population unit. In an RCGP, you should get at least 20 total hours of out-of-cell time per week (unless precluded by safety and security concerns), including yard time (at least 10 hours), education programs, religious services, job assignments, and activity groups.<sup>73</sup> You shall be allowed at least one contact visit every 60 days, plus family visiting, as well as telephone calls appropriate to your assigned Privilege Group and personal property in accord with the Authorized Personal Property Schedule for people in Level IV.<sup>74</sup>

The ICC will review your RCGP placement every 180 days to consider whether there is an ongoing threat to your safety. If there is no longer a threat to your safety, the ICC should refer your case to the DRB to consider whether to transfer you to other housing. If the ICC decides there is a continuing threat, the ICC must send your case to the DRB every two years for review of your RCGP placement.<sup>75</sup>

If you are in the RCGP, and you commit a rule violation for which you are assessed a Determinate RHU Term, you will serve that term in the RHU before returning to the RCGP.<sup>76</sup>

## **6. Can an STG Affiliation Ever be Removed from My Classification?**

You may be able to get your STG validation status “terminated” (removed from your active classification factors) after you have been free of STG behavior for a certain number of years.<sup>77</sup> Being free of STG behavior means that you do not commit any STG-related rule violations and CDCR staff do not gather additional validation source items totaling 10 points or more.<sup>78</sup> If you are a validated STG member or associate, the time line starts running on either (1) your validation date if you have remained in the general population or (2) the date you were approved for release from the former Step Down Program (SDP) to the general population. If you are on Dropout status, the timeline starts running on the date the CDCR Form 128-B2 was issued changing your status to “Dropout.”<sup>79</sup>

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<sup>71</sup> Cal. Code Regs., tit. 15, § 3378.9(f).

<sup>72</sup> Cal. Code Regs., tit. 15, § 3378.9(e)(1)-(2).

<sup>73</sup> Cal. Code Regs., tit. 15, § 3378.9(a).

<sup>74</sup> Cal. Code Regs., tit. 15, § 3378.9(e).

<sup>75</sup> Cal. Code Regs., tit. 15, § 3378.9(b).

<sup>76</sup> Cal. Code Regs., tit. 15, § 3378.4(a)(3).

<sup>77</sup> Cal. Code Regs., tit. 15, § 3378.10.

<sup>78</sup> Cal. Code Regs., tit. 15, § 3378.10(a)-(b).

<sup>79</sup> Cal. Code Regs., tit. 15, § 3378.10(a)(1), (b)(1).

The length of time you must be free of STG behavior depends on whether you were validated as an associate or member. If you are validated as an STG-I associate or STG-II associate (or you dropped out from being an associate), you must serve six consecutive years with no STG behavior. If you are validated as an STG-I member or STG-II member (or you dropped out from being a member), you must serve 11 consecutive years with no STG behavior.<sup>80</sup>

When you have been free of STG behavior for the required period of time, the ICC should consider terminating your validation status at your next annual review. If your STG status is terminated, the prison should send a Classification Committee Chrono to the OSC, which shall issue an updated CDCR Form 128-B2 stating that your STG status is “Terminated.”<sup>81</sup>

If your STG status is terminated, you will be eligible for housing and programs without any limits related to STG status.<sup>82</sup> You also should not be subjected to parole consequences (such as High Control supervision, electronic monitoring, or GPS tracking) based on your former STG status.<sup>83</sup>

After your STG status has been terminated, CDCR officials would have to go through a whole new validation process relying on new information to re-validate you as an STG member or associate.<sup>84</sup>

## **7. What Legal Rights Do I have Regarding an STG Validation, STG-Related Rule Violation Finding, or STG-Related RHU Placement?**

CDCR has a lot of discretion in validating people as STG affiliates, finding people guilty of STG-related rule violations, and deciding whether to place people in an RHU due to STG-related safety or security concerns. However, you do have some legal protections. This section discusses your legal rights related to STG validations, STG-related rule violations, and STG-related housing issues.

You have the right to have CDCR follow its own rules on STG validations, rule violations, and housing placements.<sup>85</sup> However, courts generally defer to the CDCR’s interpretation or application of the rules, unless the CDCR’s interpretation or application is unreasonable.<sup>86</sup>

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<sup>80</sup> Cal. Code Regs., tit. 15, § 3378.10(a)(1)-(2), (b)(1)-(2).

<sup>81</sup> Cal. Code Regs., tit. 15, § 3378.10 (a)(3)-(4), (b)(3)-(4).

<sup>82</sup> Cal. Code Regs., tit. 15, § 3378.10(a)(5), (b)(5).

<sup>83</sup> See Cal. Code Regs., tit. 15, § 3504(a)(1), (a)(3)(E); Cal. Code Regs., tit. 15, § 3545(c)(4); Cal. Code Regs., tit. 15, § 3561(b)(2).

<sup>84</sup> Cal. Code Regs., tit. 15, § 3378.10(a)(5), (b)(5).

<sup>85</sup> See e.g., *In re Scott* (2003) 113 Cal.App.4th 38, 44 [5 Cal.Rptr.3d 886]; *In re Carter* (1988) 199 Cal.App.3d 271, 276-277 [244 Cal.Rptr.648]; *In re Lusero* (1992) 4 Cal.App.4th 572, 575 [5 Cal.Rptr.2d 729].

<sup>86</sup> See, e.g., *In re Cabrera* (2012) 55 Cal.4th 683 [148 Cal.Rptr.3d 500] (upholding a CDCR policy that an “association” does not have to be “reciprocal” to satisfy the “direct link” requirement for a validation source item); *In re Furnace* (2012) 185 Cal.App.4th 649 (allowing use of book and

Most of the past case law about federal constitutional due process rights related to gang validations involved situations in which people were put in long-term restricted housing based solely on gang validations. Those cases are no longer directly applicable now that CDCR has changed its policies. However, depending on the facts of your individual case, you may be able to rely on federal constitutional law principles use to challenge your STG validation, rule violation, or placement in an RHU.

For serious rule violation charges (for which you can lose time credits), the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution requires that prison authorities provide some procedural protections for a fair hearing. These include the rights to advance notice of the charges, disclosure of the evidence against you, an opportunity to be heard in person, an opportunity to call witnesses and present documentary evidence (unless doing so would be hazardous to institutional safety or correctional goals), “counsel-substitute” if you are illiterate or if the complexity of the issue makes it unlikely that you will be able to adequately defend yourself, a decision-maker not actively involved in bringing the disciplinary charge, and a written statement as to the evidence relied on and reasons for the disciplinary action.<sup>87</sup> There also must be “some evidence” to support a rule violation finding of guilt.<sup>88</sup>

The Due Process Clause does not itself give incarcerated people a right to avoid placement in restricted housing (often called “segregation”). However, states can create federally-protected due process rights if (1) the state rules about segregation contain specific mandatory standards for segregation placement and (2) the segregation imposes an “atypical and significant hardship” “in relation to the ordinary incidents of prison life.”<sup>89</sup> It is likely that at least some of the CDCR’s regulations create federally-protected due process rights, since those rules contain mandatory rules concerning who can be placed in an RHU and for how long and some people who are validated as STG affiliates face extended periods of time in harsh RHU conditions if they have a Determinate RHU Term or Administrative RHU Term.

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newspaper article to validate person where items included the address of a validated STG member); *In re Villa* (2013) 214 Cal. App. 4th 954 (possession of an STG member’s chronos did not constitute a source item for validation unless CDCR could show that the who had the chronos did not possess them for the legitimate purpose of providing legal assistance to the STG member).

<sup>87</sup> *Wolff v. McDonnell* (1974) 418 U.S. 539 [94 S.Ct. 2963; 41 L.Ed.2d 935]; *Baxter v. Palmigiano* (1976) 425 U.S. 308 [96 S.Ct. 1551; 47 L.Ed.2d 810]; *Ponte v. Real* (1985) 471 U.S. 491 [105 S.Ct. 2192; 85 L.Ed.2d 553]; *Edwards v. Balisok* (1997) 520 U.S. 641 [117 S.Ct. 1584; 137 L.Ed.2d 906].

<sup>88</sup> *Superintendent v. Hill* (1985) 472 U.S. 445 [105 S.Ct. 2768; 86 L.Ed.2d 356].

<sup>89</sup> *Sandin v. Conner* (1995) 515 U.S. 472, 483-484 [115 S.Ct. 2293; 132 L.Ed.2d 418]; see e.g., *Wilkinson v. Austin* (2005) 545 U.S. 209 [125 S.Ct. 2384; 162 L.Ed.2d 174] (Ohio program placing validated people in indeterminate super-max confinement created due process liberty interest; factors relevant to whether a prison’s procedures were adequate to ensure due process include incarcerated people’s interests in being free from long-term segregation on the basis of gang validation, the risk that prison officials will erroneously validate a person and place him in segregation, the probable value of additional procedural safeguards, and the monetary and administrative burdens of requiring additional safeguards).

Another important right is the U.S. Constitution's Eighth Amendment, which forbids cruel or unusual punishment. Prison conditions, including those in restricted housing, violate the Eighth Amendment if they deprive a person of "the minimal civilized measures of life's necessities,"<sup>90</sup> resulting in either significant injury or a "sufficiently imminent danger,"<sup>91</sup> and prison staff acted with "deliberate indifference" to their needs.<sup>92</sup> Use of excessive force may amount to cruel and unusual punishment if the prison officials "acted maliciously and sadistically for the purpose of causing harm," and not in a good-faith effort to maintain or restore order.<sup>93</sup> Incarcerated people also have a right to protection from threats of violence and assault by other prisoners; prison staff violate the Eighth Amendment when they are deliberately indifferent to a substantial risk that a person will be seriously harmed by other incarcerated people.<sup>94</sup>

## **8. How Can I Challenge an STG Validation, STG-Related Rule Violation Finding, or STG-Related RHU Placement?**

If you want to challenge an STG validation, you should focus on any failure by CDCR to follow its procedural rules or validation criteria and/or the lack of some reliable evidence to support the validation.

Your first opportunity to attack STG allegations is during the initial validation process. You should try to explain any reasons why the allegations are not supported and present any evidence undermining the allegations. Likewise, if you are charged with an STG-related rule violation, you should try to explain at your rule violation hearing why you did not violate the rules or why your violation was not STG-related.

If you are validated as an STG affiliate, and you want to challenge any CDCR action, policy or conditions related to your validation, rule violations, housing, or programming, you should submit a CDCR Form 602-1 Inmate/Parolee Grievance. You must file your 602-1 within 60 calendar days after you know (or reasonably should have known) about the action, policy, or conditions.<sup>95</sup> If your grievance is denied, you then have 60 calendar days to submit a CDCR Form 602-2 Appeal of

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<sup>90</sup> *Rhodes v. Chapman* (1981) 452 U.S. 337, 347 [101 S.Ct. 2392; 69 L.Ed.2d 59].

<sup>91</sup> *Helling v. McKinney* (1993) 509 U.S. 25, 33 [113 S.Ct. 2475; 125 L.Ed.2d 22]; *Hutto v. Finney* (1978) 437 U.S. 678, 685 [98 S.Ct. 2565; 57 L.Ed.2d 522].

<sup>92</sup> *Wilson v. Seiter* (1991) 501 U.S. 294, 302 [111 S.Ct. 2321; 115 L.Ed.2d 271]; *Farmer v. Brennan* (1994) 511 U.S. 825, 842-843 [114 S.Ct. 1970; 128 L.Ed.2d 811].

<sup>93</sup> *Whitley v. Albers* (1986) 475 U.S. 312, 320-321 [106 S.Ct. 1078; 89 L.Ed.2d 251]; *Hudson v. McMillan* (1992) 503 U.S. 1, 9-10 [112 S.Ct. 995; 117 L.Ed.2d 156]; *Wilkins v. Gaddy* (2010) 559 U.S. 34 [130 S.Ct. 1175; 175 L.Ed.2d 995].

<sup>94</sup> *Farmer v. Brennan* (1994) 511 U.S. 825, 833-834, 839-840, 844-845 [114 S.Ct. 1970; 128 L.Ed.2d 811].

<sup>95</sup> Cal. Code Regs., tit. 15, § 3482(b).

Grievance.<sup>96</sup> Even if you believe that CDCR staff will deny your 602-1 and 602-2, you should still go through the process because courts will require you to “exhaust your administrative remedies” before they will hear a legal challenge to a prison action, policy, or condition.

If your 602-1 and 602-2 are denied, you may be able to file a court action. One option is a state court petition for writ of habeas corpus. State court habeas corpus petitions can be used to raise federal law and state law issues and are relatively easy to prepare. Also, if the court allows your state habeas corpus case to go forward, and you do not have money to hire a lawyer, the court must appoint an attorney to represent you for the rest of the proceedings. A second option is a federal civil rights (“section 1983”) lawsuit. A federal civil rights lawsuit can be used to raise federal law issues and state-law issues that are closely related to the federal issues. Federal civil rights lawsuits tend to be more complicated to litigate, and, although the court can try to appoint a lawyer to represent you, it does not necessarily have to do so.

Prison Law Office has information letters on many other topics. These include information on administrative grievances and appeals, , state petitions for writ of habeas corpus, and federal civil rights suits. You can get these information letters for free by writing to Prison Law Office, General Delivery, San Quentin, CA 94964. They are also available for free on the Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

You can write to Prison Law Office, General Delivery, San Quentin, CA 94964 to request free manuals about how to file administrative grievances and appeals, state habeas petitions, and federal civil rights lawsuits, and many other topics like rights at rule violation hearings and use of confidential information. The information manuals are also available for free under the Resources tab at [www.prisonlaw.com](http://www.prisonlaw.com).

There is information on your legal rights and how to protect your rights in *The California Prison and Parole Law Handbook*, published by the Prison Law Office. The *Handbook* is on CDCR electronic tablets and kiosks under Law Library/California/Secondary Sources. In addition, people who have internet access can view and print chapters of the *Handbook* under the Resources tab at [www.prisonlaw.com](http://www.prisonlaw.com). As of early 2024, we are in the process of updating the *Handbook* to reflect changes in the law since 2019; updated chapters on CDCR tablets and our website will state the dates on which they were most recently revised.

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<sup>96</sup> Cal. Code Regs., tit. 15, § 3484(b).