

Building a New Identity: Race, Gangs, and Violence in California Prisons

DALE NOLL*

TABLE OF CONTENTS

INTRODUCTION	847				R
II. BACKGROUND	850				R
A. <i>California Prison Populations</i>	850				R
B. <i>Pre-Johnson Housing Process</i>	851				R
C. <i>Prison Gangs and Racial Makeup</i>	852				R
D. <i>Racial Identification in Prison as a Social Construct</i>	853				R
E. <i>Race-Related Violence in California Prisons</i>	855				R
F. <i>Johnson v. California</i>	856				R
G. <i>Duty to Inmates</i>	857				R
H. <i>CDC Reaction to Johnson – The Updated Housing Policy</i>	858				R
I. <i>The Texas Experience – Equal Status Contact Theory</i>	859				R
III. DISCUSSION	860				R
A. <i>Use of Race as a Category Flawed</i>	860				R
B. <i>Gang Identities Used to Promote White Supremacy</i>	862				R
C. <i>The Concept of Racially Motivated Violence is Skewed</i>	864				R
D. <i>Using Segregation to Prevent Violence is Illogical</i>	866				R
E. <i>Impact of Segregation in Prisons</i>	870				R
F. <i>Was Johnson v. California a Liberal Victory?</i>	872				R
IV. CONCLUSION	872				R
V. APPENDIX A	877				R

I. INTRODUCTION

The California Prison system is notorious for its highly racialized environment. A history of numerous instances of prison violence—labeled as “race riots”—paints a picture of a system where inmates of different races require segregation to prevent brutal beatings, murders, and rapes. For example, following an incident deemed a “race riot” at the California Correctional Training Facility, North prison, prison officials locked 300 inmates in isolation until inmates complained that their Eighth Amendment and Due Process rights were violated.¹ In 2000, the Pelican Bay State Prison locked down a portion of the prison following

* Member, *University of Miami Law Review*, J.D. Candidate, 2012, University of Miami School of Law; B.A. 1996, California Polytechnic University, Pomona. Thank you to Professor Francisco Valdes for your guidance and encouragement. Special thanks to Colleen Noll and Edward Caden, both formerly of the California Department of Corrections, for all of the invaluable information and support making this paper possible.

1. Telephone Interview with Edward Caden, Esq. (March 17, 2010) [hereinafter Caden Interview] (Edward Caden is a former Chief Deputy at the Salinas Valley State Prison in California).

a riot, presumed to be racially motivated, involving 300 inmates.² In August, 2009, 1,175 inmates were involved in a riot that officials deemed “stemmed from racial tensions,” in which 249 inmates were injured and seven dorm units, holding 1,300 beds, were destroyed at the California Institution for Men in Chino, California.³ The media and prison officials point to events similar to these as evidence that California prisons are racially charged.

This concept of a highly racialized environment has been ingrained in the public psyche in popular movies such as *AMERICAN HISTORY X*.⁴ In this film, the protagonist, a White Supremacist, is sent to a California prison for brutally murdering two Black trespassers on his property. In a scene where the protagonist, Derek, disillusioned by the cross-racial dealings and politics he observes within the White Supremacists, sits alone in a common dining area, the other White Supremacists look annoyed. In later scenes, he further develops his relationship with a Black inmate, and the movie portrays the other White Supremacists raping him in the shower as punishment, with a correctional officer turning a blind eye. Following his rape, Derek continues to reject the “protection” of the White Supremacists while his Black friend warns him he has left himself open to attack by other Black inmates. In a Hollywood twist, he never gets attacked because his Black friend asked other inmates to leave him alone.⁵

Is this a realistic portrayal of California prison life? The likelihood of a swastika-tattooed White Supremacist suddenly denouncing his ways because three years of prison showed him the truth about racial prejudice seems to stretch the imagination. Do inmates truly self-segregate in an effort to protect themselves? Are inmates in California prisons innately racist, or is there something about California prisons which creates racial struggle, requiring inmate segregation? Are California prison gangs an extension of inmate prejudice, increasing the risk of violence? These are some of the questions explored in this article.

Jurisprudence has traditionally left prison segregation practices to a

2. Sarah Spiegel, *Prison “Race Riots”: An Easy Case for Segregation?*, 95 CAL. L. REV. 2261, 2261 (2007).

3. *After Action Report Released for 2009 Riot at the California Institution for Men (CIM) in Chino*, CAL. DEPARTMENT CORRECTIONS & REHABILITATION (Mar. 16, 2010), http://www.cdcr.ca.gov/News/2010_Press_Releases/March_16.html.

4. (New Line Productions, Inc. 1998).

5. *Id.* The majority of the actors in the movie are White and the most brutal scene of prison violence is intra-racial violence, which may parallel the actual experience. In another scene, the suddenly-compassionate Derek appears shocked to learn that his Black friend was sentenced to six years of prison for stealing a television which fell on a police officer’s foot during his apprehension. This Black friend was in prison when Derek arrives and is still there when Derek, who was imprisoned for stomping on someone’s head to kill him, leaves.

relaxed standard of review for Equal Protection suits, allowing California prison officials to segregate inmates according to race in double-occupancy cells. Justice Antonin Scalia, in *Richmond v. J.A. Croson*, wrote “only a social emergency rising to the level of imminent danger to life and limb—for example, a prison race riot, requiring temporary segregation of inmates . . . can justify an exception to the principle embodied in the Fourteenth Amendment that ‘our Constitution is colorblind’”⁶ This viewpoint is consistent with Justice Thomas’s recommended relaxed standard and judicial deference to prison officials who oversee “prisons that have been a breeding ground for some of the most violent prison gangs in America—all of them organized along racial lines.”⁷

Reports of riots, popular movies, and prior court opinions suggest this prison system’s prior practice of initial racial segregating of inmates was a reaction to the racial prejudices and intolerances inmates brought with them to prison. Alternatively, it suggests inmates develop prejudices through prison interactions. This concept led to the practice of segregation in initial housing of inmates. As inmates were introduced to the California prison system, they were placed in cells with inmates according to race or ethnicity.

In 2005, the Supreme Court changed the standard to be applied in cases of racial segregation at prisons. In *Johnson v. California*, Justice O’Connor’s majority held that the proper standard of review was “strict scrutiny” because the prior deferential standard too easily defended “rank discrimination” and remanded the case back to the district court for review.⁸ The California Department of Corrections (“CDC”) at that point settled with the plaintiff, Garrison Johnson, and began implementing policies to eliminate the use of race as a primary factor in initially segregating inmates as they are processed into prisons.⁹

The thesis of this article is that while the CDC claims its policies regarding initial housing in double-occupancy cells focused on separating members of conflicting gangs, in practice it segregated inmates coming into the men’s prison system by perceived race. Research has shown that racial segregation in prisons increases inmate violence, which has the effect of increasing inmate sentences. In California, where inmate populations are disproportionately Black and Latino, this practice, questioned in the courts, is only one example of the segregation existing

6. *Richmond v. J.A. Croson*, 488 U.S. 469, 521 (1989) (Scalia, J., concurring) (citations omitted) (citing another source).

7. *Johnson v. California*, 543 U.S. 499, 524 (2005) (Thomas, J., dissenting).

8. *Id.* at 514–15 (majority opinion).

9. See Telephone Interview with Colleen Noll, retired Chief Deputy Warden, Correctional Training Facility (March 21, 2010) [hereinafter “Noll Interview”].

throughout the prison system. By carefully integrating all inmate cells and eliminating the policy allowing inmates to select their own double-occupancy cell partner, California will experience less violence within the prison, thereby reducing prison sentences.

Part II provides a background of the racialized nature of the California prison system and an introduction to how racial, ethnic, and gang identities are socially constructed in a “negotiated settlement”¹⁰ between the inmates, the correctional officers, and the Department of Corrections. It explores the concept of racially motivated violence and inmate uprisings prompted by poor prison conditions, provides an overview of the Supreme Court decision in *Johnson v. California*, and provides an overview of the proposed processes for categorization of inmates for housing purposes. Finally, the section reviews the equal status contact theory in the impact of integration in the Texas prison system as a comparison.¹¹ Part III is an analysis of the housing process, assisting the reader in understanding the recommended solutions. The conclusion, Part IV, outlines the author’s proposal for Department officials to complete the initial housing integration policy rollout throughout the system, followed by a change in policy preventing inmate-initiated cell moves. The Department should implement institution-wide desegregation policies to facilitate the benefits derived from integrated prisons. In doing so, inmates will engage in less violent actions and thus serve shorter sentences, ultimately saving the cash-strapped California government money.

II. BACKGROUND

A. California Prison Populations

The number of Black and Latino inmates as compared to the general prison population is disproportionate to the California population. For example, a 2005 report indicated Black men were 7% of the general California population, but comprised 29% of the prison population. Latinos were 35% of the population, and 38% of the prison population. White men, conversely, were 44% of the overall California population, but only 27% of the prison population. Those inmates labeled “Other” are also disproportionately represented in prisons. Among men, Other represented 14% of the general California population, but only 6% of the

10. Philip Goodman, “It’s Just Black, White, or Hispanic”: An Observational Study of Racializing Moves in California’s Segregated Prison Reception Centers, 42 LAW & SOC’Y REV. 735, 737 (2008).

11. Chad Trulson, *The Caged Melting Pot: Toward an Understanding of the Consequences of Desegregation in Prisons*, 36 LAW & SOC’Y REV. 743 (2002).

prison population.¹²

B. *Pre-Johnson Housing Process*

Inmates arrive at prisons in two ways: via a reception center when coming from county jail, or through a prison's receiving and release ("R&R") center. When an inmate transfers from county jail to a reception center, this is his¹³ introduction, or re-introduction, into the California prison system. Corrections officers in these reception centers perform intensive case analyses of each inmate, including mental health, medical, dental, and education-level review. The officers use a form, called the Initial Housing Review 1882 form (see Appendix A) to collect information and create a profile of the individual. The correctional officers attempt to categorize the inmates by race and identify any gang affiliation, although inmates are typically not willing to self-proclaim membership in a particular gang. They attempt to place the inmates into the correct programs. The inmates are not supposed to be housed at these facilities for longer than 90 days. While these reception centers are located at various correctional facilities, not every correctional facility has a reception center.¹⁴ This information is used in initially housing the inmates.

Based on the information in each inmate's file from county jail, and this initial evaluation, inmates are housed at the reception center. The prior practice, and the practice in those institutions that have not implemented new procedures, was to place inmates in double-occupancy cells with members of the same race only, and avoid housing them with members of the same race who belonged to another gang, if the inmate's gang affiliation was known.¹⁵

Following this initial housing at the reception center, the inmates are transferred on buses to a correctional facility for housing in the general population. They arrive in the prison R&R area and are placed into large holding cells for evaluation. If their paperwork from the reception center does not arrive with them, inmates are housed in a single cell until their files arrive. They are evaluated, using the same 1882 Form (see Appendix A), and placed within a cell or dormitory. This is considered their permanent housing location. The inmates are not permitted to pick their own cellmate outside of identifying any particular inmate with

12. *California's Changing Prison Population*, PUB. POL'Y INST. CAL. (Aug. 2006), http://www.ppic.org/content/pubs/jtf/JTF_PrisonsJTF.pdf.

13. This analysis is focused on men's correctional facilities in California. All of the inmates, even transgendered inmates, are classified as men, as long as they have a penis. Caden Interview, *supra* note 1. Use of the words him, his, and he is in this context.

14. Noll Interview, *supra* note 9.

15. *Id.*

whom they may not be able to safely house. This is the same process used when officers transfer inmates from another correctional facility. Prior to the *Johnson* settlement, double-occupancy cells were segregated racially.¹⁶

It is important to note that inmates have always had the ability to later request a cell transfer, and select a particular cellmate, as long as the inmate's file from the reception center was available. These move requests, termed courtesy moves, are typically granted. Anecdotally, inmate courtesy move requests typically followed racial lines, meaning that a Black inmate would not typically request a move into a White or Latino inmate's cell. There is a perception that an inmate who requests a cell move with a person of another race is a trouble-maker, which leads to some pushback.¹⁷ The cell transfer process can lead to problems, as discussed below.

C. *Prison Gangs and Racial Makeup*

Because gangs in prison are considered a major problem in California,¹⁸ and the gangs are generally comprised of members of the same race, it will be helpful to the reader to learn the names of many of these gangs, otherwise known as affiliations, and the general concept of which races comprise each, as well as what animosities are generally understood to exist between them.

The official position of California prison management has been that the housing practice in question was designed to deal with gangs and to protect inmates from in-cell violence.¹⁹ Many gang affiliations identified appear to be comprised primarily of Latinos. There are Northern Hispanics²⁰ and Southern Hispanics, from northern and southern California, respectively. Members of the Northern Hispanics and Southern Hispanics are not supposed to be housed in the same cell as they are known to have the tendency to be violent with one another. There is an assumption that Latinos from northern California are part of the La Nuestra Familia gang, and that Latinos from southern California are part of the Mexican Mafia gang. This presumption is so strong the names appear to be used

16. *Id.*

17. *Id.* For example, a situation where a White inmate asks to be celled with Latinos from a certain region of California would require an investigation. Also, a White inmate requesting a cell with a Black inmate would cause issues in the recreational areas ("the yard").

18. *Johnson*, 543 U.S. at 524 (Thomas, J. dissenting) ("California . . . prisons . . . have been a breeding ground for some of the most violent prison gangs in America—all of them organized along racial lines.")

19. Noll Interview, *supra* note 9.

20. Where the outmoded term Hispanic is used in place of Latino in this article, its use is intentional to reflect the terminology and policies of the CDC and various cited sources.

interchangeably.²¹ There are also the Fresno Bulldogs, a group of Latinos, mostly from the Fresno area, who are labeled as very violent. Bulldogs are not housed with any non-Bulldog Latino and are even sent to different prisons from those with known Northern Hispanic, or La Familia Nuestra, affiliation. Lastly, there are Paisas, who are Mexican citizens imprisoned in California, who typically affiliate themselves with Southern Hispanics and are perceived to require protection from Northern Hispanics.²²

The other gangs generally discussed relate to Black and White inmates. The two gangs associated with Black inmates are the Bloods and the Crips. Known members of these gangs are not eligible to be housed with each other as they are categorized as violent, rival gangs.²³ For White inmates, there are various groups which generally appear to fall within White Supremacy groups. There are the Aryan Brotherhood, the Nazi Low-Riders, the Skinheads, and the Pecker-heads, also known as the Woods. The Skinheads and Pecker-heads are known to occasionally fight one another over business, but typically all of members of the White gangs get along.²⁴ The Nazi Low-Riders are known to encourage violent acts against homosexuals.²⁵

D. *Racial Identification in Prison as a Social Construct*

University of California, Irvine doctoral candidate Philip Goodman conducted a study of the processing of inmates at two California Reception Centers to understand racialization within the prison system. He determined that inmates and correctional officers work within the administrative framework in racial categorization in a process he termed “negotiated settlement.”²⁶ According to Goodman, traditional analysis reflects racial categorization and subsequent segregation as something inflicted upon inmates, or a reflection of self-segregation by the inmates,²⁷ ignoring the complex interplays of power and interactions between inmates and correctional officers²⁸ within an institutional framework that uses racial categories as a proxy for structuring the daily interactions of prison life to promote safety and security.²⁹

21. *Johnson v. California*, 543 U.S. 499, 527 (2005) (Thomas, J., dissenting).

22. E-mail from Colleen Noll, retired Chief Deputy Warden, Correctional Training Facility, to author (Mar. 18, 2010, 10:55:37 EST) [hereinafter Noll Mar. 18 e-mail] (answers to questionnaire) (on file with author).

23. *Id.*

24. *Id.*

25. *See Ford v. Ramirez-Palmer*, 301 F.3d 1043, 1046 n.4 (9th Cir. 2002).

26. Goodman, *supra* note 10, at 737.

27. *Id.* at 740.

28. *See id.* at 763.

29. *Id.* at 766.

Each layer of this environment becomes involved in negotiation while creating the identities used in initially housing inmates coming into prisons. The institution creates the paperwork used to collect data as inmates come into the prison system, or are transferred to different prisons.³⁰ The correctional officers use those forms and appear to have some discretion in filling out the form in that different reception centers may utilize the forms in different ways.³¹ Finally, the inmates themselves have discretion in determining this initial classification, although this discretion is severely limited.³²

Goodman relates his observation of inmates processed at the two reception centers, which he terms Central and South.³³ He did not record any conversations verbatim to ensure the inmate and correctional officer interactions were not impacted by his writing.³⁴ In the article, Goodman presents anecdotal evidence that inmates are introduced to an environment where classifications of Black, Hispanic, and White are the only acceptable options. At one reception center, a Filipino was recast as Asian by the correctional officer, but then forced to indicate he wanted to house with Black inmates, which became his race.³⁵ A Latino who claimed to be too “old” for gang affiliations was forced to pick the Hispanic group with which he wanted to be housed.³⁶ Officers rejected multidimensional identities.³⁷ Goodman noted that prisons in California are environments where multiple levels of identity possible outside of the prison are reframed and reduced to Black, White, Hispanic, and perhaps “Other,” as well as a secondary identity, gang affiliation, in a hyper-racialization process. With the exception of White inmates, the ability to indicate membership in a gang of a race outside of what an inmate appears to belong to are strongly objected to, but for White inmates there was no bar in doing so.³⁸

Perhaps the most revealing observation made by Goodman was the indoctrination process that occurred as inmates were processed into the prison system. He relates an obviously rehearsed speech one correctional

30. *See id.* at 749.

31. *Id.* at 757.

32. *Id.* at 755.

33. *Id.* at 743.

34. *Id.* at 745.

35. *Id.* at 757.

36. *Id.* at 756.

37. *Id.* at 760–62 (Identities such as a Latino calling himself Chicano or Cuban, a person both Mayan and Jamaican rejecting the label Black, and individuals requesting to be housed with other Christians were rejected).

38. *Id.* at 755–56. Goodman noted that a White prisoner, as a member of the majority race could indicate he belonged to the Crips gang, but observed no instances of Black or Hispanic inmates claiming membership in a White prison gang. *Id.*

officer gave to a group of incoming inmates in which he advised them that the prison staff were not the group to be worried about, but that they should worry about the Fresno Bulldogs, and to talk to their “peoples” to learn the truth.³⁹ In hearing about this “speech” one prison official indicated that while this was absolutely against prison policy and represented a serious lack of judgment on the officer’s part, it was not surprising.⁴⁰ In another example, a correctional officer subtly corrected a newly incarcerated White inmate who expressed no issue to the idea of being housed with a Black inmate by suggesting being “unaffiliated” was a safety issue within the prison.⁴¹ Inmates quickly become indoctrinated to the racialized environment.

E. *Race-Related Violence in California Prisons*

There is a long history of prison violence, often attributed to racial tension, throughout the country and particularly in California prisons. The 1971 New York Attica prison uprising was portrayed in the media as a horrific race riot where inmates slashed hostages’ throats in a well-organized plot by radical leaders. The Attica prison was still completely segregated ten years following California’s desegregation of facilities (not including initial housing, of course). Research into the actual causes of the conflict were found to be growing dissatisfaction by Black inmates with the criminal justice system, resentment of open racism by prison officials, and poor prison management. In California, a grand jury ruled a White correctional officer’s shooting of three Black inmates involved in a race-related fistfight was justifiable homicide. Black inmates reacted by throwing another White inmate to his death.⁴² A 1979 altercation termed a race riot at the California Training Facility in Soledad resulted in 300 inmates placed on restricted incarceration for an extended period of time, prompting county action in response to inmate claims of constitutional right violations.⁴³ In 2006, Latino gang-affiliated inmates at California’s Pitchess Detention Center attacked Black inmates in violence involving 2,000 inmates, resulting in two deaths.⁴⁴

“Race riots” have occurred in California prisons as recently as 2009. On August 8, 2009, 1,175 inmates participated in a riot at the

39. *Id.* at 747.

40. Noll Interview, *supra* note 9.

41. Goodman, *supra* note 10, at 758.

42. Spiegel, *supra* note 2, at 2271–73. This article presents more examples illustrating the conflict between correctional officers and inmates, indicating a trend of some correctional officers instigating racial-based violence. Examples included gladiator-themed fights where known rivals were released into a yard for spectators, with officers firing weapons or chemical gases into the crowd. *Id.*

43. Caden Interview, *supra* note 1.

44. Spiegel, *supra* note 2 at 2275–76.

reception center located at the California Institution for Men in Chino, resulting in 249 inmate injuries, 54 of which required transfer to outside hospitals, nine staff injuries, and no reported deaths. Inmates seized broom handles, plumbing fixtures, and broken glass to attack one another. Inmate violence rendered seven dormitory-style housing units, containing 1,300 beds, uninhabitable. The CDC estimated the costs to replace the housing units at \$5.2 million. Department officials determined the rioting resulted from racial tensions and gang behavior, precipitated by “Hispanic and White inmates attacking Black inmates.”⁴⁵ Earlier in the week, prison officials placed the various reception center housing and recreational facilities on heightened security prompted by an anonymous letter warning of an impending riot.⁴⁶ On August 7, the day before the larger incident, rioting broke out in two recreational areas. Correctional officers in one of these areas removed Black inmates from the situation before more inmates became involved.⁴⁷ The rationale behind removing the Black inmates, reported to be the victims in this scenario, is unclear, but it may have been to protect observable victims from further attacks.⁴⁸

Some authors argue that observers easily confuse an important distinction between violence resulting from inmate racial tensions and violence against racial inequities. For example, the incidents of riots at Los Angeles County jails, such as the one at the Pitchess Detention Center, were deemed the result of racial tensions but others argue the true cause of this violence is overcrowding in an overburdened system of inhumane incarceration. By focusing on the actions of the inmates as evidence of their innate prejudices, these critics argue, the prison system’s responsibility in creating the violence through overcrowding and racist or unprofessional officers remains unexamined, and the responsibility of California citizens in the racial inequities of the criminal justice system is ignored.⁴⁹

F. Johnson v. California

It is within this framework that Garrison Johnson brought a suit against the CDC in 1995, claiming violation of his Fourteenth Amendment rights to equal protection. Since his incarceration in 1987, Johnson

45. After Action Report from Robert L. Ayers, Jr., Warden (retired) et al., California Institution For Men Reception Center West Riot After Action Report (Jan. 25, 2010), at 10–11, available at http://www.cdcr.ca.gov/News/CIM_DOC/CIM_AAR.pdf.

46. *Id.* at 25.

47. *Id.* at 26.

48. Reframed, this action could appear to indicate the Black inmates were separated to protect the White and Latino inmates.

49. Spiegel, *supra* note 2, at 2286–87.

had been housed at multiple prisons, and each time the CDC housed him with another Black inmate.⁵⁰ The CDC argued that under the deferential standards of *Turner v. Safley*,⁵¹ Johnson had the burden of disproving the “‘common-sense connection’ between the policy and prison violence”⁵² and that even under the higher standard of strict scrutiny, the policy should be exempt since it applied equally to all inmates.⁵³ Conversely, several amici curiae, writing for other State prison officials and the United States government, argued that racial integration of cells leads to less interracial violence and leaves inmates better prepared for re-entry upon leaving prison.⁵⁴

The majority, in an opinion written by Justice O’Connor, failed to find the practice unconstitutional, but held the appropriate standard of review to be strict scrutiny, and that, on remand, the CDC needed to prove its race-based policies were “narrowly tailored” to “the compelling interest in prison safety.”⁵⁵ In her concurring opinion, Justice Ginsburg insisted that while the strict scrutiny standard was appropriate for the CDC policy, that level of judicial review is inappropriate for programs designed to address entrenched discrimination.⁵⁶ But, the majority opinion indicated strict scrutiny is the appropriate standard of review for “all racial classifications.”⁵⁷

G. Duty to Inmates

CDC Management contends it designed the initial housing policy, unwritten or otherwise, around gang affiliations and not racial classifications. They contend policies of capturing information regarding inmate race, along with other factors such as weight, medical history, history of sexual assaults, and history of racially motivated incidents are designed to safely house inmates with the understanding inmates may not willingly divulge any gang affiliations. Because the segregation imposed related solely to the initial housing period, with inmates free to, but apparently refusing to, associate with inmates of other races outside of their cells and to request cell transfers to house in a double-cell with an inmate, they maintain that the policy was designed to protect inmates

50. *Johnson v. California*, 543 U.S. 499, 503 (2005).

51. 482 U.S. 78 (1987).

52. *Johnson*, 543 U.S. at 504–05 (citation omitted).

53. *Id.* at 506.

54. *Id.* at 508–09.

55. *Id.* at 514–15.

56. *Id.* at 516 (Ginsburg, J., concurring).

57. *Id.* at 506 (majority opinion). Spiegel argues that the cases that Justice O’Connor cited as proof that any racial classification system is subject to strict scrutiny were cases where the Court struck down programs beneficial to the promotion of minority interests, suggesting the CDC policy was actually beneficial to minorities. Spiegel, *supra* note 2, at 2265.

from in-cell violence from, or against, an inmate new to the institution or prison system whose gang affiliations and danger to members of another gang or race were unknown.⁵⁸

This rationale is supported in Justice Thomas's dissent in *Johnson*,⁵⁹ highlighting the duty prison officials have to protect inmates from harm. He cites *Farmer v. Brennan*, in which the Supreme Court held a prison official was liable for "deliberate indifference" in failing to prevent a substantial risk of harm he knew, or with proof by the plaintiff the official "must have known," would befall an inmate.⁶⁰ With the history of perceived racially motivated violence, and knowledge that some inmates express unwillingness to house with members of another race, prison officials agree with Thomas's position that the initial segregation practice was necessary.⁶¹

H. CDC Reaction to Johnson – The Updated Housing Policy

The California Attorney General's office and the CDC Director, rather than re-litigate in the lower Federal courts, settled with Johnson.⁶² The CDC began a slow process of implementing the changes at individual prisons. The CDC began training correctional officers to view race as only one factor, not the primary factor, in housing decisions. Inmates have an opportunity to indicate their unwillingness to participate in the program, but are presumed eligible to house with any inmate. Inmates previously involved in a racially motivated crime may be given a housing code of Restricted to Own race or Restricted Partially, indicating they can be housed only with certain racial or ethnic groups.⁶³ If an inmate expresses his unwillingness to comply with the program, he is subject to disciplinary action.⁶⁴

58. Noll Interview, *supra* note 9.

59. Johnson, 543 U.S. at 535–36 (2005) (Thomas, J., dissenting); Caden Interview, *supra* note 1.

60. Johnson, 543 U.S. at 546 (citing *Farmer v. Brennan*, 511 U.S. 825, 842 (1994)). In *Farmer*, federal prison officials placed a transgender male prisoner who had undergone an unsuccessful surgery to remove her testicles, but had undergone breast implant surgery and estrogen therapy, into general population at a men's prison. Within two weeks, another inmate beat her and raped her in her cell. *Farmer v. Brennan*, 511 U.S. 825, 838 (1994).

61. Noll Interview, *supra* note 9; Caden Interview, *supra* note 1; Johnson, 543 U.S. at 502–03 ("An associate warden testified that if race were not considered in making initial housing assignments, she is certain there would be racial conflict in the cells and in the yard.").

62. Noll Interview, *supra* note 9.

63. E-mail from Colleen Noll, retired Chief Deputy Warden, Correctional Training Facility, to author (Mar. 12, 2010) [hereinafter "Noll Mar. 12 e-mail"] (attached memo DOM Supplement # 030 Integrated Housing, 1) (on file with author).

64. An inmate guilty of refusing to comply carries a sentence of three to nine months of Segregated Housing Unit (SHU) term. *Id.* at 3. Inmates serving a SHU term have limited privileges and do not earn good time credits, effectively extending their sentences. Noll Mar. 12 e-mail, *supra* note 22.

The CDC maintained the policy of allowing courtesy cell transfer requests, while other policies designed to prevent in-cell violence remain. After 45 days of compliance with the new housing policy, inmates may request a courtesy move into a cell of another inmate, also compliant for 45 days.⁶⁵ Inmates are periodically re-evaluated to identify major changes in weight, which creates a particular risk for a significantly smaller inmate, and affiliation.⁶⁶ The CDC updated the intake evaluation form to reflect the new policy by including an area to indicate an inmate's gang affiliation, with the following options: Northern, Southern, Bulldog, Crip, Blood, White, Other, and Non-affiliated.⁶⁷ The new policy is designed to de-emphasize the role of race or ethnicity in housing decisions, while highlighting the role of gang affiliation.

I. *The Texas Experience – Equal Status Contact Theory*

University of Texas researchers found during a ten-year study of the Texas prison system, which began to integrate double-occupancy cells in the general population in 1991, that the rate of “racially motivated assaults among cell partners decreased as integration increased.”⁶⁸ Prior to the integration policy implemented in 1991, Texas prison officials segregated inmates based on their race in all two-person cells. Inmate Allen Lamar brought a Civil Rights Act of 1964 claim against prison officials for discrimination against Black inmates. Texas prison officials agreed to integrate double cells following a class action lawsuit in 1977. Years later, after numerous fines and court sanctions, Texas prison officials finally agreed to integrate 95% of all custody double occupancy cells in 1991.⁶⁹

These researchers were evaluating the effect of the Equal Status Contact Theory, which contends an environment where people find equal status reduces prejudice because people are sensitized to negative stereotypes and learn more about the norms and experiences of others.⁷⁰ While other studies focused on attitudes, these researchers found a prison setting an ideal environment because it allowed them to focus on behavior— namely, racial violence.⁷¹ Since inmates experience similar degradation ceremonies inmates within an integrated cell are at the highest level of equal status, and any existing hierarchies within the prison

65. Noll Interview, *supra* note 9.

66. *Id.*

67. *See infra* Appendix A.

68. Trulson, *supra* note 11, at 769.

69. *Id.* at 753–54.

70. This theory also contends institutional support and common goals and interests enhance positive contact. Trulson, *supra* note 11, at 745.

71. *Id.* at 748–49.

setting left to the inmates are stripped even further within a double-occupancy cell. As integration increased within the prison, the incidents of interracial assaults within the integrated cell partners decreased over a ten-year period.⁷² The second year of the program, 1992, was the only year the prisons did experience a higher rate of violence between cell mates in integrated cells than in segregated cells, attributed to poor integration planning and classification. The integration plan, more pervasive than the plan the CDC is implementing, did not result in the anticipated increased violence, but led to reduced violence among cell partners.⁷³

III. DISCUSSION

A. *Use of Race as a Category Flawed*

In a skewed example of what Critical Race Theorists term the black-white binary,⁷⁴ California prisons attempt to place inmates into three categories; Black, Latino, and White. There is a catch-all “Other” category for members of other ethnicities, but as discussed, this category is inconsistently used within the prison system.⁷⁵ I will discuss this concept as the “Prison Identity” paradigm. Under this paradigm, inmates lose cultural, social, or national identities, such as Portuguese, Cuban, Jamaican, Christian, and homosexual. At best, the inclusion of Latino as one of the three possible categories under this paradigm is a concession to the black-white binary concept: that Black and White identities are central to discussions of racial inequities. Of course, this inclusion reflects California’s focus on the Latino, in particular Mexican, population as a problem—illustrated by its Proposition 187 campaign to deny illegal immigrants access to medical, education, and welfare benefits.⁷⁶ The “Prison Identity” paradigm focuses housing decisions on discussions of race, an initial step in the racialization process.

It is apparent the initial categorization is not the only opportunity for inmates or correctional officers to establish their racial or ethnic background. The updated 1882 intake form includes check boxes to indicate which ethnic groups an inmate is restricted from housing with, which appears to include more diverse categories such as Puerto Rican, Filipino, Chinese, Jamaican, and Korean (see Appendix A). This sug-

72. *Id.* at 764.

73. *Id.* at 764–66.

74. See generally Juan F. Perea, *The Black/White Binary Paradigm of Race: The “Normal Science” of American Racial Thought*, 85 CAL. L. REV. 1213 (1997).

75. Goodman, *supra* note 10.

76. See RICHARD DELGADO & JEAN STEFANIC, *CRITICAL RACE THEORY* 72 (Richard Delgado & Jean Stefanic, eds., N.Y. Univ. Press 2001); *Most of California’s Prop. 187 Ruled Unconstitutional*, ALL POLITICS CNN, <http://www.cnn.com/ALLPOLITICS/1998/03/19/prop.187/> (last visited Nov. 16, 2011).

gests more accurate identification occurs at some point in the incarceration process; otherwise, how would a corrections officer know an inmate was of Jamaican descent in order to prevent housing him with an inmate not qualified to house with a Jamaican person? But, the form also includes a very small free-form area to indicate the inmate in question's own ethnicity. Without a similar guide to indicate this inmate's racial or ethnic background, correctional officers will continue to use the "Prison Identity" paradigm to classify inmates coming into each institution, continuing the unique racialization process of California prisons.

It would be naivety to consider completely eliminating racial classification in housing considerations within such a highly racialized environment. The CDC realized this and stresses in its implementation of initial housing integration that racial category can no longer be the primary consideration. But it is still a consideration. The inclusion of the check-boxes for "Restricted Ethnic Groups" illustrates the importance of properly identifying an inmate's ethnic or racial background. Some inmates will bring their own dangerous prejudices with them to prison, while others may be pressured into what appears to be racially motivated violence.⁷⁷ Even so, because of the predictions of the integration policy's failure by some correctional officers and prison management, it is unlikely the "Prison Identity" paradigm will shift. This introduction of inmates to the prison system as a dangerous, segregated environment will continue without intense education, and as some prison officials admit, some prison staff make poor choices.⁷⁸ Improperly identifying dangerous inmate prejudices—and the targets of these dangerous prejudices—would result in unnecessary violence. For example, housing someone of mixed Latino and Japanese descent with a Chinese inmate who has expressed dangerous prejudice against Japanese is a breach of the prison's duty to protect the mixed-race inmate.⁷⁹ While inmates refusing to comply with the new Integrated Housing Policy face disciplinary action, unfortunately some inmates cannot be housed with inmates of all races and ethnicities, highlighting the importance of recognizing intersectional identities.

The effect of this categorization is indoctrination to the racialized environment and the message that inmates require the protection of prison gangs. In Justice Stevens' dissent to *Johnson*, he recognized the racialization effect the CDC's policy of segregation would have on initiating "new arrivals into a corrosive culture of prison racial segregation,

77. See *infra* Part III-C.

78. See Noll Interview, *supra* note 9.

79. See *Johnson*, 543 U.S. at 518–19 (Stevens, J., dissenting) (indicating an associate warden's comment that "you cannot house a Japanese inmate with a Chinese . . . they will kill each other" is evidence that the California practice was founded in racial stereotypes).

lending credence to the view that members of other races are to be feared and that racial alliances are necessary.”⁸⁰ Inmates begin to learn immediately that inmate-racial identity is both restricted to a few categories and an important factor in prison daily life. Each time an inmate transfers to a new prison, correctional officers and other inmates reiterate this message.⁸¹

Finally, this racialization process might have the additional effect of hiding the true number of inmates of the majority race in prison. If a reception center in California refuses to accept categories outside of Black, Latino, and White, they force inmates to select a category to which they do not belong. A Portuguese or Korean (or a Portuguese-Korean) inmate may not consider himself White, but select that category. In particular, the disparity between a male inmate population of 6% “other” versus 14% “other” in the overall California population, and 27% White population in prison compared to 44% of the California population serves two interests. The lower proportion of “other” allows officials to perpetuate the model-minority theory while masking the true number of Asian men imprisoned. Additionally, interest convergence allows California prison officials to point out inflated White population numbers, suggesting the disparity between general and inmate populations of Whites is more narrow than it actually is, while systemically preventing Whites from sentences to, or extended stays within, prisons.⁸²

B. *Gang Identities Used to Promote White Supremacy*

From the beginning, the California prison system pushes inmates into joining prison gangs. Upon arrival in a reception center, inmates are indoctrinated to the concept that they need the protection of their “peoples” and that some group, for example, the Fresno Bulldogs, is out to get them. At each prison, correctional officers ask inmates what their “affiliation” is and communicate that being unaffiliated is not acceptable. It is in the interest of the correctional officers to promote this idea because the message for inmates is “we aren’t your problem, *they* are.” The idea that gangs protect inmates from race-driven violence is then reinforced by other inmates.⁸³ This concept is so prevalent that racial identity, ethnicity, and even geographic location are conflated with gang affiliation in prisons, creating confusion as to the source of the issue.

80. *Id.* at 523.

81. See *supra* Part II-D.

82. See PUB. POL’Y INST. CAL., *supra* note 12. This same report indicates inland and poorer regions of the state experience incarceration rates about twice as high as experienced in wealthier regions along the coast, meaning class or income levels relate to incarceration, as well.

83. Discussed in *supra* Part II-D and *infra* Part III-D.

Because of this conflation, gang affiliation has become an identity within the California prison system under the “Prison Identity” paradigm. The most glaring example of this is the treatment of Latinos within the system. The term Northern Hispanic is now synonymous with the gang La Nuestra Familia, while Southern Hispanic translates to the Mexican Mafia. The updated 1882 induction form (see Appendix A) requests that correctional officers identify gang affiliation, with the options Northern, Southern, and Bulldog. This suggests Latino inmates arriving from Los Angeles are presumed members of a gang, probably the Mexican Mafia, but true identification of the gang name does not matter because Southern Hispanic means gang member. Conversely, unless they arrive from Fresno jails, Latino inmates from Northern California are presumed members of a rival gang. Unlike Black or White inmates, by virtue of being Latino (whether Cuban, Venezuelan, or Mexican) and from a particular region of California, inmates are presumed to be members of a gang. While prison gangs do typically consist of members of particular races or ethnicities and disputes between gangs do arise, the conflation of gang affiliation, geographic location, and racial or ethnic identity creates confusion in discussions of the role of race in prison violence.

Consider, for example, a twenty-three year old Chicano (Alex) convicted of possessing a substantial amount of drugs and sentenced to prison. Having seen popular movies such as *AMERICAN HISTORY X*, he rides a bus to a reception center already with the idea that unless he finds other Chicano inmates to protect him, he may be vulnerable to attack. He may already feel compelled to seek companionship with other Chicanos with a background and family experience similar to his because his life experience has taught him that many White Americans view all Chicanos as a burden on California. Arriving at a reception center, he and the other inmates, Black, White, Latino, or otherwise, are informed by a person of authority that the Bulldogs are out to get them. Being from Rancho Cucamonga, he is easily identified as being from Southern California, so he is placed in a cell with another Latino inmate from Southern California, who confirms that the Fresno Bulldogs are a problem. Further, he learns that the problem is so severe that there are no Northern Hispanics at the reception center because “Northerners and Bulldogs hate each other so much they can’t even be in the same prison.” Alex, convicted of a non-violent crime, just learned he has to worry not only about members of other races, but also other Mexican Americans who happen to be from a certain city.

Consider further that Alex learns his cellmate happens to be a member of the Mexican Mafia. His cellmate confirms for him that gangs

are a big factor in the prison and that, being from Southern California, Alex is now suddenly a “Southerner” and has to worry about the Fresno Bulldogs and any Northern Hispanic. Convinced about the importance of affiliation, Alex thanks his cellmate, who proceeds to discuss the other “politics” of the prison system. Sixty days later, Alex is transferred to a prison in central California and learns that there will be Northern Hispanics at this prison. When he is reviewed at the R&R center of his new home, he quickly identifies himself as a Southerner to ensure he will not be placed in a double-occupancy cell with a Northern Hispanic. He makes friends with other Southern Hispanics and becomes involved in the Mexican Mafia.

This story highlights several points about the process of creating a new identity of gang affiliation within the prisons. Inmates have preconceived notions about a racially divided prison system that necessitates finding protection with inmates of the same ethnicities. These fears are confirmed by correctional officers, and the inmates see evidence, such as barber request boxes labeled by “race”⁸⁴ and the entire induction process, that the institution highlights racial identity for segregation purposes. This process perpetuates the creation of a new identity and the proliferation of gang prisons.

This prodding of inmates into gangs promotes White supremacy because for White inmates the risk of violence related to gang affiliation appears to be lower. White inmate prison gangs have no known rivalries, as opposed to Black and Latino inmate gangs. White inmates have the ability to choose gang affiliations outside of their perceived race. Correctional officers do not presume gang membership for White inmates based on race and geography. The number of Black and Latino inmates in prisons are disproportionately higher, and pressure into joining a gang means a large number of inmates leave the prisons as members of a gang, increasing their chance of further criminal activity and re-incarceration. Finally, inmate violence extends prison sentences and White inmates face less risk of gang-affiliated violence in prisons.⁸⁵

C. *The Concept of Racially Motivated Violence is Skewed*

Additionally, the concept of racially motivated violence is skewed. There is a difference between violence between members of different ethnic or racial backgrounds influenced by bigotry and historic uprisings in prisons of inmates racially oppressed within the confines of misman-

84. Some of the institutions have haircut request boxes labeled “Black Barber”, “Hispanic Barber”, and “White Barber”, discussed in more detail *infra* Part III-D. Goodman, *supra* note 10, at 746; Noll Interview, *supra* note 9 (confirming the existence of the boxes).

85. Discussed *infra* Part III-E.

aged or overcrowded prisons. Prison officials found evidence that the 2009 Chino riot was a result of racial tensions and bigotry, making it an example of truly racially motivated violence. However, the 2006 Pitchess Detention Center violence is an example of inmate rebellion against overcrowded, inhumane conditions in a California jail, dismissed as racially motivated violence. Further, while evidence indicated the 2009 Chino riot resulted from racially based bigotry, deeper analysis of where this bigotry and conflict comes from would indicate similar factors, overcrowded prisons and dissatisfaction with the criminal justice system in California, contributed in large part to the violent actions. Individual acts of violence which happen to occur between inmates of different perceived races may be incorrectly labeled racially driven.⁸⁶ Confusion over these concepts leads to both simply labeling them both racially motivated violence and to structural determinism.⁸⁷ Prison management and personnel overlook any contributing factors leading to racial tension and find evidence of inmate prejudice in any incidents of violence where participants happen to be members of different perceived races.⁸⁸

A major factor contributing to inmate tension is overcrowding in California prisons. California prisons were originally designed for one person in each cell; the extensive use of double-occupancy cells is evidence of this overcrowding.⁸⁹ And it has been California backlash politics that has led to dramatic increases in prison populations. Under this self-justifying circularity, backlash proponents can point to evidence of inmate activity to prove that inmates in prison are dangerous racists that cannot even be trusted within a “tightly controlled” environment to prevent their violent, racist behavior. This environment reflects an institutional mindset critical race theorists might term “Reasonable Racism,”⁹⁰ which is the idea that a person, or institution, acts in a racist manner under the belief that, statistically, inmates of various races will not cohabitate peacefully in a prison setting.

86. See Caden Interview, *supra* note 1. Caden confirms incidents are presumed to be racially motivated. “The first thing the prison guards do is identify the worst-case scenario. They lock up the parties and try to figure out what happened. They assume a racial issue in that they are afraid of race-motivated violence spreading. That is why prisoners are so quickly locked up following violent acts.”

87. See generally Reginald Leamon Robinson, *Human Agency, Negated Subjectivity, and White Structural Oppression: An Analysis of Critical Race Practice/Praxis*, 53 AM. U.L. REV. 1361 (2004).

88. Noll Interview, *supra* note 9; Caden Interview, *supra* note 1.

89. Noll Mar. 18 e-mail, *supra* note 22 (expected occupancy for men’s prisons are 190% of designed capacity for General Population for cells and 150% for Reception centers).

90. See generally Montre D. Carodine, “*The Mis-Characterization of the Negro*”: A Race Critique of the Prior Conviction Impeachment Rule, 53 IND. L.J. 521 (2009); JODY DAVID ARMOUR, NEGROPHOBIA AND REASONABLE RACISM: THE HIDDEN COSTS OF BEING BLACK IN AMERICA 13 (1997).

The idea that inmates are the racial issue as opposed to the structure within which society places them is appealing to the general public and prison officials. The California governor and legislature can avoid the probing questions of how to prepare inmates for re-introduction to life outside of the prison. Under the current process, California voters are protected from the “dangerous” criminals in prison who “obviously” belong there. California as a whole can look to these instances of prison violence as proof of the propensity of Black men to commit crimes and avoid the guilt of supporting a criminal justice system in which 29% of the prison population is Black, but only 7% of the general population is Black. Similarly, CDC officials and California politicians can avoid questioning the racializing nature of the prison system which creates the scenarios people point to as examples of why the inmates in prisons are dangerous and need to stay there to protect the public, without considering the fact that many inmates go to prison for crimes that are not violent in nature.

D. *Using Segregation to Prevent Violence is Illogical*

Following the *Johnson* decision, media outlets provided examples of inmate and prison staff expressions of fear that the updated policy is unworkable. With dramatic titles such as *Stirring up a Bloodbath*?⁹¹ and *Protecting ‘Diversity’—Inmates Win Equal Right to be Murdered*,⁹² inmates, correctional officers, and media pundits predicted that inmates would kill one another in their cells after being forced to cell with an inmate of another race. One White inmate interviewed expressed his opinion he would have to kill a Black cellmate if forced to house with one or face being killed by other White inmates. A Latino inmate expressed his willingness to only live in a cell with another Southern Hispanic.⁹³ Correctional officers predicted fights would occur⁹⁴ and that the initial segregation policy reflected inmate preferences.⁹⁵ In one

91. Adam Ashton, *Stirring Up a Bloodbath?*, *MODESTO BEE*, Apr. 9, 2006, at B1, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/110ECDBAC3B2FDB0/0E3DD8B102176220?p_multi=MODB&s_lang=en-US.

92. Chris Weinkopf, *Protecting ‘Diversity’ – Prisoners Win Equal Right to be Murdered*, *DAILY NEWS OF L.A.*, Feb. 27, 2005, at V1, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/1088FD49434EB6FF/0E3DD8B102176220?p_multi=LANB&s_lang=en-US.

93. Ashton, *supra* note 91.

94. Mason Stockstill, *Does This Make Sense?*, *INLAND VALLEY DAILY BULLETIN*, Dec. 19, 2005, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/10EA067A919A7840/0E3DD8B102176220?p_multi=VDBB&s_lang=en-US; Michael Doyle & Andy Furillo, *California prisoner separation challenged—Supreme Court justices say the practice borders on discrimination*, *FRESNO BEE*, Feb. 24, 2005, at A1, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/1087A9D0BA2CAF20/0E3DD8B102176220?p_multi=FBEB&s_lang=en-US.

95. Doyle, *supra* note 94. The article quoted one correctional officer as saying, “If you ask an

newspaper article, inmates and corrections officers proclaimed that CDC management inaccurately expressed the level of segregation throughout the prison system, indicating the issue goes beyond the initial housing practice questioned in the courts.⁹⁶

How can these dire predictions of racial hostility be reconciled with Garrison Johnson's claim that the CDC violated his constitutional right to equal protection? These reactions to the news the CDC planned integration of initial double-occupancy cell housing reflect the racialized nature of the prison system in California. As the correctional officers noted earlier pointed out, the segregation practice in initial housing was only one example of segregation existing throughout the California prison system. Texas prison officials integrated general population double-occupancy cells, not just initial housing, and rejected cell transfer requests by inmates. Without addressing the institutional-level issues of segregation, California supports the empathic fallacy by applying a band-aid to the overreaching problems associated with prison segregation. Inmate, correctional officer, and prison management predictions of failure of the program would likely become reality.

More importantly, the violence discussed in California prisons tends to be violence perpetrated by inmates of a perceived race against inmates of the same race.⁹⁷ As one retired prison official wrote, "Believe it or not, there is very little violence that is racially motivated. What they do have is . . . an issue where a black will attack a black, or a white attack a white, because that person was doing business, hanging out, etc. with the other race If there is a disrespect issue, the race will punish their own."⁹⁸ Contrast this to the view expressed by Justice Thomas, in his dissent in *Johnson v. California*, of the need for a standard lower than strict scrutiny regarding racial segregation, and the statement, "The

inmate—and you have to ask them—do you want to be housed with a person of a different race, nine out of 10 times, they say no."

96. The Associated Press, *Guards Say California Prisons are Segregated*, ST. LOUIS POST-DISPATCH, Jan. 23, 2005, at A04, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/107D191CDA800037/0E3DD8B102176220?p_multi=SLJDB&s_lang=en-US. The article includes a quote from Charles Hughes, a lieutenant at California State Prison in Lancaster. "It's all about segregation. It's all we do," Hughes said. "We segregate permanently and use race for job placement and everything, and for them to say otherwise is an absolute lie. And for them to lie to the Supreme Court is appalling."

97. See e.g. Noll Mar. 18 e-mail, *supra* note 22 (Northern Hispanics not housed with Southern Hispanics); Jonathan Turley, *Good Intentions Aside, Separate Still Isn't Equal*, WASH. BEE, Feb. 13, 2005, at B3, available at http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/1083E38CF8A69FF4/0E3DD8B102176220?p_multi=WPIW&s_lang=en-US (Northern and Southern Hispanics have issues with each other before going to prison); *Johnson v. California*, 543 U.S. 499, 524 (2005) (Thomas, J., dissenting) (Hispanics from northern California are not housed in reception centers with Hispanics from southern California as they often are members of rival gangs).

98. Noll Mar. 18 e-mail, *supra* note 22.

majority is concerned with sparing inmates the indignity and stigma of racial discrimination. California is concerned with safety and saving their lives.”⁹⁹ Racial tensions in prisons do exist, but since prison gangs cause the majority of the violence in prisons a majority of this violence is against members of gangs typically associated with the same “race.”¹⁰⁰ If correctional officers are unaware of an inmate’s gang affiliation, and automatically place an inmate in the cell with another inmate simply because they are of the same perceived race, they increase the chances of in cell violence. Justice Stevens, in his dissent to *Johnson v. California*, recognized the risk of focusing on race in that correctional officers might “house together inmates of the same race who are nevertheless members of rival gangs, such as the Bloods and Crip.”¹⁰¹ This highlights the real danger in the focus on race as a classification regarding initial housing; it increases the likelihood of in-cell violence.

California prisons are perceived as very racially charged, and the suggestion is that the environment is a result of the inmates’ prejudices, creating the need for these initial segregation practices to protect the inmates. The decisions of inmates to choose cell partners of the same perceived race, as well as perceptions of behavior outside of inmate housing cells, where inmates appear to interact in recreational yards and dining areas strictly with members of their own race, are used as evidence of the necessity of this initial segregation.¹⁰² One potent illustration of the concept that the racial segregation in prisons reflects inmate prejudices is the existence, in at least one reception center, of separate haircut request boxes labeled “Black Barber,” “White Barber,” and “Hispanic Barber” because “inmates refuse to use hair clippers that have been used by someone of another ‘race.’”¹⁰³ Justice Thomas, in his dissent to *Johnson v. California*, used the fact that the plaintiff in the case, Garrison Johnson, never chose to house with a person of another race in a double cell as a rationale in his opinion that a standard of review lower than strict scrutiny was applicable in regards to prison settings and racial

99. *Johnson*, 543 U.S. at 524 (Thomas, J., dissenting).

100. Spiegel, *supra* note 2, at 2287.

101. *Johnson*, 543 U.S. at 523 (Stevens, J., dissenting).

102. See Ashton, *supra* note 91 (indicating inmates self-segregate in areas where no imposed segregation policies exist); Caden Interview, *supra* note 1 (comparing the tendency towards self-imposed segregation with perceived self-imposed segregation within immigrant communities outside of prisons).

103. Goodman, *supra* note 10, at 740 (stating that “[T]his article treats as problematic the CDCR’s claims that racial segregation is merely the physical separation of inmates who do not see themselves as ‘compatible’”); *Id.* at 746 (noting that barbers of the inmate’s own race will only use barber tools on the inmates which have not been used by someone of another race); Noll Interview, *supra* note 9 (validating the existence of this practice, emphasizing this was based on inmate demand).

segregation.¹⁰⁴

To the contrary, this supports the author's contention that the CDC focus on just the initial housing decision creates an unworkable solution. Inmates indoctrinated to this uniquely racialized environment are likely to continue to choose to live in double-occupancy cells with inmates of the same race. If inmates who choose to move into a cell with an inmate of another race are perceived as trouble-makers, and likely as race traitors, they risk violence from members of their own race, and the cycle of segregation will continue. The prison system will continue to indoctrinate inmates to the idea that they require protection of those within their own race against inmates of different races, ensuring inmates will quickly request cell transfers to be in double-occupancy cells with members of their own race.

Without addressing the institutional level of reasonable racism, stereotypes that Blacks and Latinos are dangerous criminals and Whites require protection inside and outside of prison will perpetuate. Recall that the updated 1882 intake form only provides one gang affiliation checkbox for gangs associated with White inmates, while multiple choices exist for Black and Latino gang affiliations. This suggests that prison officials consider White gang affiliations less dangerous than Black and Latino inmate gang affiliations. Perhaps more concerning, given the evidence that the majority of inmate violence occurs between members of the same perceived race, some critics might draw the inference that the majority sees an interest in perpetuating the violence that reduces the number of Black and Latino members eligible for release from prison.

Finally, the focus on race and gang affiliation ignores other dangers prison officials overlook. Inmates retain the ability to request cell transfers with inmates of their own choice. This leads to inmate drug deals, prostitution, and violence.¹⁰⁵ In *Ford v. Ramirez-Palmer*,¹⁰⁶ a member of the Nazi Low-Riders requested a cell transfer with an inmate in the psychology ward of a California prison. Within two days the gang member, Diesso, had murdered his cellmate, Ford. Prison staff knew the victim was homosexual. Diesso was under psychiatric care for having stabbed another homosexual inmate—17 times—the prior year, apparently over threatened exposure of Diesso as a homosexual. The Nazi Low-Riders encourage violence against homosexuals. At the time of the incident, Nazi Low-Riders were not an acknowledged prison gang.¹⁰⁷

104. *Johnson v. California*, 543 U.S. 499, 550 (2005) (Thomas, J., dissenting).

105. Noll Interview, *supra* note 9.

106. 301 F.3d 1043 (9th Cir. 2002).

107. The language of the opinion is interesting in that it distinguishes between Ford, "widely

Recall, however, the updated 1882 intake form provides only a checkbox for “White” under gang affiliation, and there is no checkbox for sexual minority identity. Even following recognition of Nazi Low-Riders as a prison gang, prison officials may be unaware of the danger of housing members of this gang with homosexuals. Finally, other inmates may face the risk of cell transfer requests where the intention is violence against an unwitting inmate.¹⁰⁸

E. *Impact of Segregation in Prisons*

As Texas prisons discovered, racial integration of inmates leads to less violence over time. Justice O’Connor points out in the majority opinion for *Johnson* that segregation in prisons tends to exacerbate any inmate contentions.¹⁰⁹ Several amici curiae for the United States government agreed that integration leads to lower incidents of violence.¹¹⁰ Inmates that experience the effect of equal status realize the positive results experienced in Texas prisons. This suggests the opposite effect when segregation is an integral function of a prison system. Indoctrination of inmates from day one to a segregated prison system leads to more in-cell violence.

Because violence in prison leads to longer sentences, the system of segregation still in place also leads to longer prison sentences. When an inmate is suspected of a violent offense, the local district attorney presses charges. Upon conviction, the court will assign a sentence,

known to PAS staff as an effeminate homosexual,” and Diesso, “not outwardly homosexual” but “reputed to engage in homosexual behavior.” Ford, 301 F.3d at 1046–47. This suggests subordination within prison systems based on the perceived masculinity of inmates. Further, it highlights the danger of another type of classification within the penal system: sexuality.

Professor Russell K. Robinson of UC Berkeley recently described the ramifications of perceived sexuality and masculinity in the Los Angeles County Men’s Jail. Russell K. Robinson, *Masculinity as Prison: Sexual Identity, Race, and Incarceration*, 99 CALIF. L. REV. 1309 (2011). Jail officials segregate inmates who identify themselves as gay or transgendered into a separate K6G unit to “protect” them from sexual violence. To ensure that only truly “gay” or transgendered individuals are segregated, inmates are required to declare their sexuality in front of other inmates, are evaluated on their perceived femininity or vulnerability, and must prove their sexuality to deputies with answers to questions about sexual acts and preferences, familiarity with “gay” terminology, familiarity with certain gay bars or gay pride festivals, and requests to contact the inmates’ families. *Id.* at 1323–28. Robinson argues that this method of classification has a disparate impact on Black and Latino men, as they are less likely than White men to have access to expensive gay bars and festivals and to the knowledge required to pass these “tests” of sexuality. *Id.* at 1376–77. Additionally, this does not protect heterosexual men perceived as effeminate or vulnerable—or those men who actually are homosexual but are uncomfortable identifying as a homosexual or do not pass the “tests”—from sexual violence. *Id.* at 1311–12.

108. Colleen Noll, California Training Facility Chief Deputy recalled an incident where an inmate, after three years of requested cell moves, murdered an inmate suspected of providing information to authorities about gang activity. Noll Interview, *supra* note 9.

109. *Johnson*, 543 U.S. at 507.

110. *Id.* at 509.

which may include a prison term consecutive to the inmate's current term. The prison then holds an administrative hearing at which good time credits can be lost. For example, if prison officials take 360 days of credit away, they add 180 days to the inmate's sentence. The inmate also spends time in Segregated Housing, where good time credits cannot be earned. Therefore, each time an inmate is convicted of a violent crime, his prison term lengthens.¹¹¹

By only addressing the concern raised in the courts, the CDC applies only partial integration, and will fail to achieve the benefits of integration found in Texas. The CDC may find that a few inmates, housed for 60 to 45 days with an inmate of another race, will reject joining a gang and become so comfortable with their cellmate they later choose to continue to stay in the same cell. But, as previously discussed,¹¹² inmates have always had the ability to choose their own cellmate after 45 days and routinely choose inmates of the same race or ethnicity. This illustrates the segregation at an institutional level. California prisons will continue to see the levels of gang-related violence always experienced, and the levels of in-cell violence will not see the significant decrease in violence documented in Texas prisons following integration.

Further, it is apparent that White, heterosexual inmates are the only beneficiaries in the current segregation system. Blindly housing two heterosexual Latino or Black inmates creates a risk as they may be members of rival gangs. Blindly housing two heterosexual White inmates of different gang affiliations does not present the same risk of violence. White inmates further have the ability to indicate membership with the Crips or Southern Hispanics, while a Black inmate who attempts to claim membership with the Aryan Brotherhood will be denied by correctional officers. Therefore, the risk in-cell violence has of extending prison sentences disproportionately impacts Black and Latino, in particular Latino, inmates already overrepresented in California prisons. The new Integrated Housing Policy may eliminate this privilege for White inmates by reducing the risk to Black and Latino inmates of the current process. However, if California finds the partial integration unworkable, or fails to see reduction of violence, the California officials may decide the CDC can scrap this voluntary (as in not court-ordered) program. Further, other potential benefits to White inmates in the general population, such as less suspicion of gang rivalry motivation in requesting cell trans-

111. Noll Mar. 18 e-mail, *supra* note 22. The term segregated in this instance means segregated from the general prison population.

112. See *supra* Part II-B and Part II-H.

fers with another White inmate, require exploration.¹¹³

F. *Was Johnson v. California a Liberal Victory?*

Just as critical race theorists point to interest convergence as the source of victory for *Brown v. Board of Education*,¹¹⁴ the “victory” proclaimed following *Johnson v. California* is one revisionist historical scholars in the future shall proclaim a liberal victory subject to interest convergence. The Supreme Court failed to find the practice at question unconstitutional, and the core issues of segregation in California prisons remain untouched. Therefore, the Supreme Court created a decision without an effective remedy for Johnson. The CDC can point to its efforts to integrate while simultaneously highlighting inmate self-segregation as an indication of why the process is bound to fail. The core issues of prison overcrowding and correctional officer incompetence remain unaddressed,¹¹⁵ and the public will continue to label any inmate reactions in protest as racially motivated violence. Critics of the CDC decision to integrate will have evidence to support scrapping the updated program when it proves ineffective in reducing “racially motivated violence.” Even if the integration program for initial housing remains intact, given correctional officer skepticism,¹¹⁶ the roots of prison segregation will remain.

IV. CONCLUSION

The CDC has a difficult task in attempting to integrate California prisons. As highlighted in *Farmer* and *Ford*, and in the initial implementation of Texas integration, care in housing decisions is necessary to prevent violence. The task of integration requires considering prison officials’ duty to prevent harm to inmates under their care. Staff and prison management priority is another concern. As discussed,¹¹⁷ frustration with prison conditions can lead to inmate violence, sometimes directed toward correctional officers, and sometimes against other

113. Philip Goodman describes a “paucity” of literature exploring contemporary prison life. Goodman, *supra* note 10, at 741.

114. See generally Delgado & Stefanic, *supra* note 76, at 20; Richard Delgado, *Book Review: Rodrigo and Revisionism: Relearning the Lessons of History: Racism on Trial: The Chicano Fight for Justice* by Ian F. Haney Lopez, 99 NW. U.L. REV. 805 (2005); MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* (2000). Interest convergence is the idea that minorities gain social justice only when it converges with an interest of those in the majority power position. Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 Harv. L. Rev. 518, 523 (1980).

115. Caden Interview, *supra* note 1. “As much as I hate to say it, prison staff are the problem. . . . An attitude of us against them develops.” *Id.*

116. Noll Interview, *supra* note 9.

117. See *supra* Part III-C.

inmates, creating a danger to prison staff trying to stop ongoing violence. Prison management must consider that the prison system houses thousands of inmates already indoctrinated to a racially segregated environment and that many of its employees believe an integration plan will not work. More critically, inhumane conditions within the prison, including overcrowding and staff attitudes, require attention. These factors indicate the CDC's narrow focus on the initial housing of inmates is a "band-aid" solution, an example of the empathic fallacy, and doomed to failure. The CDC must focus on integration throughout the prison system.

The first steps taken by the CDC appear to be in the correct direction in resolving the issues. While the concepts of race and ethnicity cannot be entirely eliminated in housing decisions, they cannot be the primary factors. The CDC has recognized this need, as illustrated in this summary of the policy:

It is the policy of the Department of Corrections and Rehabilitation that race will not be used as a primary determining factor in housing its inmate population. All inmate housing assignments shall be made on the basis of available information, individual case factors, and objective criteria necessary to implement an integrated housing plan. This policy will ensure that housing practices are made consistent with the safety, security, treatment, and rehabilitative needs of the inmate, as well as the safety and security of the public, staff, and institutions.¹¹⁸

However, elimination of the segregation practice in double-occupancy cells is still just the first step.

As illustrated by the initial violence following the Texas prison integration plan in 1992, integration of inmates requires careful planning and classification. While the CDC must focus on ensuring that inmates understand the importance of the program, and the consequences for refusal to comply, it is more critical that prison staff receive intensive training.¹¹⁹ They must learn to recognize identity beyond the "Prison Identity" paradigm. Correctional officers and prison management must recognize multidimensional identities or inmates may inadvertently be placed into cells with inmates ineligible for complete integration due to actual racially motivated violent proclivities. Correctional officers with attitudes of superiority and pessimism regarding the integration require correction. Prison staff must recognize if an inmate who indicates

118. Noll Mar. 12 e-mail, *supra* note 63 (attached TRI-PLEX AND INTEGRATED HOUSING memo from Ben Curry, Warden).

119. See Noll Mar. 18 e-mail, *supra* note 22 (Training is a part of the current integration plan. Correctional officers are trained on the integration process and how to process inmates at the R&R and reception centers.).

unwillingness to house with members other races or ethnicities is a true risk.¹²⁰ These factors indicate the careful approach adopted by the CDC is appropriate.¹²¹

The CDC approach to identification of gang affiliation also requires overhaul. Updating the 1882 form to reflect the options of Aryan Brotherhood, Nazi Low-Rider, Skinheads, and Pecker-heads would eliminate the suggestion White inmates are the victims of gangs associated with other races and ethnicities. Identification of sexual minority, where possible, in conjunction with identification of membership in gangs, like the Nazi Low-Riders, known to encourage violence against sexual minorities, would prevent further violence. Updating the form to include the names La Nuestra Familia and the Mexican Mafia, instead of Northern and Southern, would help prevent the assumption that any Latino inmate is a member of a gang. Finally, by reducing the suggestion that inmates need the protection of their “peoples,” inmates who want to avoid gang membership will be able to do so.

As prisons roll out the initial housing integration program, they should also eliminate courtesy cell move requests. This appears to be the most damaging policy affecting in-cell violence. Inmates can currently request a move to the cell of someone they want to conduct some sort of business transaction with, as a method of prostitution, and to commit violence on an inmate unaware of the danger. In the current structure of racialization and presumption of a need for gang affiliation as protection, inmates are likely to request a cell transfer with a member of the same race once the 45-day initial period ends. Denying courtesy cell requests increases the chances inmates will benefit from equal status contact theory.

This change becomes especially important as integration within initial housing occurs. Currently, there is a practice of discouraging cell moves by members of one perceived race into the cell of a member of another race or ethnicity. In that environment, an inmate making such a request would trigger suspicion of correctional officers. As the initial housing changes are implemented, inmates may decide to take advantage by requesting a transfer to move to a cell with a particular inmate with whom they have a personal grudge who happens to be of another race or ethnicity. Correctional officers, aware of the new policy, may

120. Correctional officers tell inmates what the program is and what consequences arise from failing to comply; namely loss of good-time credits. The CDC indicates most inmates then comply. Noll Mar. 18 e-mail, *supra* note 22. It is critical, however, that the officers understand when an inmate poses an actual risk despite indicating a willingness to comply.

121. Noll Interview, *supra* note 9. There have been no major issues reported at the reception and R&R centers. There is an expectation the high level institutions with the most violent criminals will experience the most issues when integrating.

feel obligated to approve the request. Most alarmingly, an unscrupulous correctional officer, upset with governmental interference with the status quo, may knowingly approve such a request, with the idea that proving their worst fears will allow prison management to reverse the decision.

The biggest impact of making this policy change is removing the stigma attached to inmates requesting courtesy cell moves with a member of another race or ethnicity. Inmates placed into cells with inmates of another perceived race or ethnicity can rely on institutional policy to show other inmates they are not a “race traitor” because the decisions are beyond their control. With the stigma removed, the CDC can move onto the next phase—integration throughout the prisons.

Once all of the Reception and R&R centers have implemented the initial housing changes, the CDC needs to integrate all double-occupancy cells. This will require a large scale effort of categorization to ensure no obvious risks are created. Inmates who refuse to cooperate will require education on repercussions associated with refusal. A beta-site prison should be selected for complete integration. Once this prison is integrated, CDC officials should monitor for a period of time to see which decisions created difficulties, and which worked most effectively. Prison management already performs periodic re-evaluation of inmate housing criteria,¹²² but this will be more critical as double-occupancy cells integrate. Then each prison should roll out a complete integration program.

As the integration occurs throughout the prison, CDC officials need to understand that some violence is likely to occur. Texas prisons saw an initial spike in in-cell violence. While one author attributed this to poor planning, he also suggested significant organizational changes in prisons, particularly those prompted by judicial intervention, typically result in short-term violence and disorder.¹²³ CDC management cannot view these incidents, even if there is a short-term spike of incidents, as proof the plan is unworkable. Leaving the current policy in place creates an environment where gang affiliation is very important, and prison violence tends to stem mainly from these gangs. Decreasing inmate dependence on gangs, by making gangs unnecessary for protection purposes, should eventually result in the decreased violence experienced in Texas prisons. Perhaps the power of the gangs in prisons, which extends to people outside of prisons who may experience oppression of a different nature, will weaken.

122. Noll Mar. 18 e-mail, *supra* note 22 (To see if weight has changed drastically, if the inmate has been a victim or instigator of a sexual or racially-motivated assault, or if any medical concerns require cell re-assignment).

123. Trulson, *supra* note 11, at 766.

Integration throughout the California prison system would benefit inmates, the CDC, and society in general. Because inmate violence tends to extend prison sentences, and racial segregation tends to increase violence, the current practice of segregation throughout the prison system tends to extend prison sentences. Integrating all prison cells will reduce violence in prisons; therefore, inmates will spend less time in California prisons. When inmates spend less time in prisons, the CDC will experience an improved financial situation. Society will benefit when the California criminal justice system gains credibility as a tool of rehabilitation,¹²⁴ not just a place to hide “undesirable” Black, Latino, and poor White men away.

124. Alternative solutions other authors may explore include alternatives to incarceration, drug treatment programs, and a greater focus on rehabilitation.

2012]

BUILDING A NEW IDENTITY

877

V. APPENDIX A

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 1852 (Rev 02/07)

Initial Housing Review

Prior to housing, the aforementioned information was obtained during a private screening process and the review of available documents pertaining to this inmate.

CDC#		NAME OF INMATE (Last, First, MI)				RECEIVING INSTITUTION	
ETHNICITY	DATE OF BIRTH	AGE	WEIGHT lbs	HEIGHT ft in	PLACE OF BIRTH	DOES THE INMATE CLAIM TO BE A FOREIGN NATIONAL? <input type="checkbox"/> YES <input type="checkbox"/> NO	
RELEASE TYPE & DATE	COUNTY OF COMMITMENT		SENDING JAIL / INSTITUTION		CSR ENDORSEMENT		
SENTENCE		ARRIVAL STATUS		PRIOR CDC NUMBER	PSC/CLASS SCORE		
COMMITMENT OFFENSE / PAROLE VIOLATION(S)						E-FILE AVAILABLE FOR THIS REVIEW <input type="checkbox"/> YES <input type="checkbox"/> NO	
OUT TO COURT RETURN <input type="checkbox"/> YES <input type="checkbox"/> NO		If yes and I/M received a significant sentence increase complete MH referral and notify Psych Tech		ESCAPE HISTORY? <input type="checkbox"/> YES <input type="checkbox"/> NO		CUSTODY LEVEL	
<p>Inform Inmate: - The Department has an integrated housing policy. All inmates will be housed based on housing availability. Housing assignments are not made based on your race but are based on information available at the time of housing. Individual case factors and objective criteria. Inmates who refuse to comply with this policy will receive progressive discipline consistent with the specific act.</p> <p>INTEGRATED HOUSING:</p> <p>Ask Inmate: - While incarcerated (jail/prison), have you ever been in a race based incident(s)? (Check applicable items. Explain and/or give details of checked items below)</p> <p><input type="checkbox"/> as a Victim <input type="checkbox"/> as an Assailant <input type="checkbox"/> part of a Race Riot <input type="checkbox"/> None</p> <p>EXPLANATION / DETAILS / INMATE COMMENTS</p> <p>RESTRICTED ETHNIC GROUP(S) (Check applicable code(s))</p> <p><input type="checkbox"/> WHI <input type="checkbox"/> BLA <input type="checkbox"/> HIS <input type="checkbox"/> AMI <input type="checkbox"/> CAM <input type="checkbox"/> CHI <input type="checkbox"/> COL <input type="checkbox"/> CUB <input type="checkbox"/> FIL <input type="checkbox"/> GAE <input type="checkbox"/> GUA <input type="checkbox"/> HAW <input type="checkbox"/> IND <input type="checkbox"/> JAM <input type="checkbox"/> JPN <input type="checkbox"/> KOR <input type="checkbox"/> LAO <input type="checkbox"/> MEX <input type="checkbox"/> NIC <input type="checkbox"/> O.A <input type="checkbox"/> OTH <input type="checkbox"/> PI <input type="checkbox"/> PR <input type="checkbox"/> SAL <input type="checkbox"/> SAM <input type="checkbox"/> THA <input type="checkbox"/> VIE <input type="checkbox"/> NONE</p> <p>Note: Restricting an ethnic group should be based on inmate interview and individual case factors.</p> <p>DDPS IHC CODE: ENTERED BY: _____ <input type="checkbox"/> RR <input type="checkbox"/> RT</p>							
LOCAL ENEMY / SAFETY CONCERNS (Check applicable items)		HISTORY OF AGGRESSION (Check applicable items)		IN-CELL ASSAULT HISTORY (Check applicable items)			
<input type="checkbox"/> Documented <input type="checkbox"/> Inmate Claims <input type="checkbox"/> None Summarize Inmate's Enemy/Safety claim and/or list applicable documents (type and date), CDC #, Name, and Housing of known enemies at this institution.		<input type="checkbox"/> Towards Staff <input type="checkbox"/> Towards Inmates <input type="checkbox"/> Use of Wpn <input type="checkbox"/> Unknown <input type="checkbox"/> None List Inmate's act(s) of aggression, as well as supporting documentation (type and date).		<input type="checkbox"/> As a Victim <input type="checkbox"/> As an Assailant <input type="checkbox"/> Unknown <input type="checkbox"/> None Summarize Inmate's claim and/or list all documents (type and date) reflecting in-cell assaults.			
<input type="checkbox"/> Inmate Claims <input type="checkbox"/> Documented		<input type="checkbox"/> Inmate Claims <input type="checkbox"/> Documented		<input type="checkbox"/> Inmate Claims <input type="checkbox"/> Documented			

ROUTING/DISTRIBUTION
CONTROL
PROGRAM OFFICE
C-FILE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 1882 (Rev 02/07)

Initial Housing Review

Prior to housing, the aforementioned information was obtained during a private screening process and the review of available documents pertaining to this inmate.

Initial Housing Review (continued)

CDC #	NAME OF INMATE (Last, First, MI)	
IN-PRISON SEXUAL ASSAULTS		
Inmate Interview: - While incarcerated (jail/prison), have you ever been involved in a sexual related assault, i.e. pressured, fondled, raped: (Check applicable items. Explain and/or give details of checked items below)		
<input type="checkbox"/> As a Victim <input type="checkbox"/> As an Assailant <input type="checkbox"/> None <input type="checkbox"/> Inmate Claims <input type="checkbox"/> Documented		
EXPLANATION / DETAILS / INMATE COMMENTS		
PRIOR SINGLE CELL STATUS IDENTIFIED BY (Check if applicable)	HOUSING STATUS INFORMATION (Check applicable item)	SINGLE CELL STATUS APPROVAL AUTHORITY (LIEUTENANT OR ABOVE)
<input type="checkbox"/> Documentation <input type="checkbox"/> Inmate Claims <input type="checkbox"/> Jail Personnel SUMMARIZE:	<input type="checkbox"/> Double Cell <input type="checkbox"/> Single Cell <input type="checkbox"/> Dorm SINGLE CELL STATUS JUSTIFICATION	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved SIGNATURE: _____ TITLE: _____ PRINTED NAME: _____
PREVIOUS HOUSING STATUS (Check Only if applicable)	AFFILIATION INFORMATION	
<input type="checkbox"/> ASU / SHU / PHU / PSU <input type="checkbox"/> GP <input type="checkbox"/> SNY <input type="checkbox"/> BMU <input type="checkbox"/> DMH <input type="checkbox"/> RC SOURCE: <input type="checkbox"/> OBIS <input type="checkbox"/> DDPs <input type="checkbox"/> DOCUMENTATION / C-FILE	Affiliation Space to specify affiliation if known <input type="checkbox"/> NORTHERN <input type="checkbox"/> SOUTHERN <input type="checkbox"/> BULLDOG <input type="checkbox"/> CRIP <input type="checkbox"/> BLOOD <input type="checkbox"/> WHITE <input type="checkbox"/> OTHER: <input type="checkbox"/> NON AFFILIATED AKA's:	
HEALTH INFORMATION / CONCERNS HEALTH COMMENTS:		
MENTAL HEALTH LEVEL OF CARE: <input type="checkbox"/> GP/NONE <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH PRIOR SUICIDE ATTEMPTS: <input type="checkbox"/> NO <input type="checkbox"/> YES: _____ DDP CODE: _____ (CLARK) DATE: _____ VICTIMIZATION CONCERNS: <input type="checkbox"/> YES <input type="checkbox"/> NO DPP CODE: _____ (ARRESTING) DATE: _____ TB CODE: _____ <input type="checkbox"/> LOWER/1 ST TIER <input type="checkbox"/> LOWER/BOTTOM BED <input type="checkbox"/> WHEELCHAIR ACCESSIBLE BED <input type="checkbox"/> ASTHMA <input type="checkbox"/> DIABETIC <input type="checkbox"/> SEIZURES <input type="checkbox"/> DIALYSIS <input type="checkbox"/> OTHER _____ <input type="checkbox"/> NONE NOTED		
ADDITIONAL COMMENTS / CONCERNS		
		SCREENING / ARRIVAL DATE
SCREENERS: PRINTED NAME	TITLE	SIGNATURE