Background on Prisoner Advocacy Network’s Efforts to End NDPF
The Prisoner Advocacy Network has been supporting the 34 United Group. 34 United have hosted rallies at CDCR prisons and outside of CDCR headquarters, met with legislators, the Governor’s office, and the Inspector General, testified at hearings, and supported litigants.
Priorities & Demands

For All Officials
1. Meet with incarcerated people (starting with established advisory councils and self-help groups), families, and impacted-led advocacy groups, to solicit ideas for programming, and access to medical and other resources.
2. Develop a work group with inside representatives (such as advisory councils, group leaders, etc.), formerly incarcerated people, families, community organizations, program volunteers and staff, and investigate and release findings.

Specific to CDCR
2. Stop using illegal underground regulations related to NDPF.
3. Authorize the OIG to audit NDPF.
4. dismiss rules violations associated with NDPF and revisit cases with release day delates and parole denials due to NDPF.

Specific to Legislators
1. Hold formal hearing (Public Safety or Boys and Men Of Color committee).
2. Submit a letter to the Chair of the Joint Legislative Audit Committee (JLAC) requesting California State Auditor to conduct an audit about NDPF.
3. Meet with OIG.
4. Push Senate Pro Tem Toni Atkins, Speaker of the Assembly Anthony Rendon, or Governor Newsom to authorize OIG audit.
5. Request OIG to investigate and report on NDPF through one of its other powers.
6. Meet with CDCR Secretary Ralph Diaz and request CDCR to authorize to write report.
7. Attend peoples’ hearing hosted by advocates.
8. Tell CDCR to rescind all discipline related to NDPF and transfer everyone out of any form of solitary or segregation.
9. Hold meeting with Receiver's Office to discuss NDPF.
10. Get Legislative Analyst’s office to write report.

Specific to OIG
1. Investigate and report on NDPF (relevant OIG reporting jurisdiction includes: audit, blueprint monitoring, discipline monitoring, letter report, “special review,” and use of force monitoring) per Penal Code section 6126, 6126.5, and 6126.
2. Meet with CDCR and request CDCR to authorize OIG investigate and write report on NDPF complaints received per Penal Code section 6128.
3. Call meeting with CDCR and plaintiff’s attorneys to discuss NDPF.
4. Investigate and write report on deaths in custody, discipline, appeals, use of force, use of segregation, staff discipline, and related trends on NDPF yards.

Specific to Governor
1. Tell CDCR to end policy.
2. Tell CDCR to dismiss rules violations associated with NDPF and revisit cases with release day delates and parole denials due to NDPF.
3. Authorize the OIG to audit.
4. Tell legislators and JLAC to request State Auditor to write report.
5. Tell CDCR internal auditor to conduct an audit.

Specific to State Audit Office
1. Audit NDPF and hold hearings
2. Respond to Whistleblower Complaints advocates submit.
Background: CDCR’s Illegal Termination of Protective Custody

An illegal new CDCR policy is killing people. We need your help to save lives by ending NDPF.

CDCR Revokes Nonviolent People’s Right to be Protected From Violence

“Non-Designated Programming Facilities,” or NDPF, refers to CDCR’s new policy of ending protective custody and forcing previously partitioned groups to house together. For decades, incarcerated people at heightened risk of victimization were designated for housing and programming in Sensitive Needs Yards (“SNY”), where they were kept separate from people designated General Population (“GP”).

Beginning in 2018, CDCR began ending protective custody and forcing SNY- and GP-designated people to live together in Non-Designated Programming Facilities (“NDPF”), where incarcerated people live together and attend educational and recreational programming together regardless of their designation. This forced integration has heightened that the protective custody program was designed to protect against. People who are forced by this policy to house in unsafe places face life-threatening dangers; CDCR routinely ignores warnings that a particular housing assignment will put a person in specific danger.

“I was told that we had 10 minutes to pack [and be transferred to NDPF facility]...I immediately informed [the corrections officer] that I had safety concerns due to my SNY history and that I would not be safe from assault due to there being active gang members housed in General Population. She informed me that if I were placed in Administrative Segregation due to these concerns that I ‘will be written up, deemed a program failure, and put up for transfer to a level 3 or 4 institution’.”

“It puts our lives at risk....[I’m an ex-gang member] with good conduct and an upcoming initial Board of Parole Hearing....trying to make it home to my family. Please help us with this so some of us have the opportunities to see our families again.”

“A friend just got a parole date....He followed the rules and completed every kind of program (AA/NA/School/Etc) he could to show the parole board he had changed and was worthy of release. A few days later after being granted a parole date he was forced to move to [an NDPF] facility, and not [an] hour after landing there...he was stabbed in the neck by [other] inmates.”

“I’m a semester shy of my college degree. I have been clean away of gangs, drugs….I don’t want to stay here in prison and right now I’m close to completing all the board requirements. I won’t be able to do it if I’m [transferred to an NDPF facility and] I’m always having to worry about my life being in danger.”

“Some people such as myself, a dropout gang member, can only be housed on SNYs due to our previous activities, now placing us [in NDPF] on ‘hit lists.’”

NDPF Was Implemented Without Public Process, Flouting Statutory Requirements

CDCR developed the NDPF program through an underground process, ignoring statutory requirements for implementation of new regulations. NDPF is a dangerous and ill-conceived program that puts thousands of people at risk of violence and death; California statute prescribes the process to be followed when implementing regulations that have such sweeping consequences. In the case of NDPF, however, the policy was implemented through a
simple series of departmental memos, without any of the public process that would make such a dramatic revocation of rights legitimate. CDCR has flouted the authority of the Legislature and created underground regulations.

**NDPF Causes Predictable and Preventable Violence, Loss of Liberty, and Deaths**

This illegal game of Russian roulette has brought alarming consequences for people in California’s prisons. It has destroyed the hopes of families who were expecting their loved ones to come home soon, but who now will not see their loved ones because of this policy. This policy has led to preventable violence, sexual assaults, and murders. It has created opportunities for unscrupulous corrections officers to use violence for personal entertainment. It has led to people being denied privileges, property, and earned release that they would otherwise have qualified for. As all of these problems have unfolded, CDCR has prevented people from contesting the dangerous conditions the policy has created, ignored the dangers it was facilitating, underreported the serious consequences of the program, and retaliated against people attempting to object.

Prisoner Advocacy Network has a 120-page brief describing specific rights violations resulting from NDPF. That brief draws on testimony from hundreds of people regarding the dangerous conditions created by this program. Some of their testimony is included in this summary.

**Murder, Sexual Assault, and Other Violence**

“I was kicked in the face, in the back of my head, in the ribs and all over my body. Blood was coming out of my mouth…and they popped a blood vessel in my eye. My tooth got knocked out with a [pad]lock. They stabbed me with nails and screws and I was dragged from end to end of the dayroom. Here I am trying my best to make it to a window to yell out for help but the punches were getting harder and harder and coming from every direction.”

“[M]e and 6 other [SNY] inmates were attacked by 28 individuals….Several of us including myself were hospitalized.”

“I was the target of homemade darts and arrows using blowguns and bows, these being dipped in feces and/or urine, designed to cause illness and infection.”

These kinds of attacks happen regularly and predictably when CDCR ignores warnings that a person will be unsafe in an integrated housing assignment. When CDCR trivializes legitimate objections based on valid safety concerns, the resulting violence and victimization is the result of CDCR’s irresponsible actions. NDPF does just that: it causes people to be in constant danger of brutal violence, sexual assault, and death. Just last month, an inmate in an NDPF yard warned corrections officers that he would attack SNY people who had been assigned to his housing unit. The officers ignored his warning. The next day, he brutally murdered two SNY people. Those two could still be alive if CDCR staff had listened to the explicit warnings of the danger facing people forced to live in unsafe housing.

**Officers Staging Fights, Failing to Intervene, or Using Excessive Force**

Inmate-on-inmate violence in NDPF yards does not occur solely because of negligence on the part of prison staff. Much of the violence is caused intentionally in settings known as “Gladiator Fights.”
These officer-staged fights are referred to euphemistically as “Incremental Release.” People who are known to be dangerous to each other are released from their cells simultaneously, with the knowledge and expectation that violence will result. The Office of the Inspector General’s report on incidents of violence at three prisons (Exhibit A) documents that out of 51 integrations it tracked, 64% resulted in violence. CDCR is knowingly causing violence by its implementation of these policies.

**NDPF-Facilitated Violence Undermines Efforts to Fulfill Plata Decarceration Mandate**

When this predictable and preventable violence occurs, corrections officers respond with excessive and unnecessary force. All people housed in the NDPF facility, whether directly involved in the violence or not, may face a number of consequences: revocation of phone, visitation, and other privileges; disqualification from parole or earned release; lockdown; and solitary confinement.

When people are placed against their will in dangerous housing and attempt to defend themselves against violent attacks, they are subject to similar sanctions.

When people refuse dangerous housing assignments in the hopes of avoiding predictable and preventable violence, they are subject to the same sanctions.

With no regard for due process, CDCR issues unsubstantiated Rules Violations Reports to people who inform corrections staff that they will be hurt or killed if forced to house on an unsafe yard. When such reports are made, CDCR also transfers such people to prisons far away from their families; takes away program, work, time credits, contact with family, and other rehabilitative opportunities; and takes away opportunities to earn money to pay restitution to victims.

People who have worked hard to rehabilitate and lower their classifications scores, and who are doing everything possible to earn release under traditional parole or population reduction initiatives, are having their release dates revoked or delayed because of CDCR’s misconduct.

Every time a person is unnecessarily denied parole or earned release as a result of preventable NDPF-related violence, or as a result of their refusal to accept an unsafe NDPF housing assignment, it becomes more difficult for CDCR to meet the U.S. Supreme Court’s decarceration requirements articulated in *Brown v. Plata*.

**CDCR Obstructing Complaint Process and Retaliating Against People Who Object to Unsafe Housing**

People complaining of specific incidents of violence have had CDCR officials obstruct their efforts to file or obtain paperwork:

“*I sent out the Civil Rights Complaint to the [court] clerk in Fresno but it was returned because the prison is a participant in Electronic Filing (e-filing). In fact, my counselor, [redacted], as well as prison staff and facility new about this e-filing and yet still allowed it to be sent, knowing the court would be returning it. Nonetheless, although the clerk sent my Civil Rights Complaint back to the prison, it somehow managed to get lost.*”

“*[H]e stabbed me…I was taken to the hospital. I have requested…the incident report but I can't get it.*"
“We were handcuffed and taken to a cage where we signed a paper stating we were victims. But never received a copy of the document.”

Another prisoner reported that “CDCR headquarters has told custodial staff to under-report any and all NDPF-related assaults, except where as a riot breaks out.”

People report numerous examples of retaliation for objecting to dangerous conditions. “Every time I’ve submitted [form] CDC-602, or CDC-22, there has always been retaliatory actions, ASU [solitary confinement] - higher security levels…starvations sleep deprived, lack of medications and or medical care.”

Additionally, reports indicate that CDCR staff are confiscating mail that mentions NDPF.

What You Can Do

We need legislators’ and other officials’ help to hold CDCR accountable for this policy. We ask that you put pressure on legislative leaders and on Governor Newsom to authorize an OIG audit and to initiate an audit by the State Auditor.

We ask that you meet with CDCR Secretary Ralph Diaz to request that CDCR authorize the OIG to investigate and write a report on NDPF, to request that CDCR rescind all discipline related to NDPF, and to transfer out of solitary confinement or administrative segregation anyone who is there as a result of NDPF.

We ask that you hold formal hearings, attend peoples’ hearings hosted by advocates, write a bill to give OIG more power to hold CDCR responsible, and press the Legislative Analyst’s Office to write a report.
Media Coverage

- Protesters blame riot at Norco prison on new state reintegration policy, https://www.youtube.com/watch?v=a4GDs_ZCVVs