

EXHIBIT G

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 (Additional counsel listed on attached page)
 13

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

17 TODD ASHKER, DANNY TROXELL, GEORGE
 18 RUIZ, JEFFREY FRANKLIN, GEORGE FRANCO,
 GABRIEL REYES, RICHARD JOHNSON, PAUL
 19 REDD, LUIS ESQUIVEL, and RONNIE
 DEWBERRY, on their own behalf, and on behalf of
 20 a class of similarly situated prisoners,

21 Plaintiffs,

22 v.

23 EDMUND G. BROWN, JR., Governor of the State
 of California, MATTHEW CATE, Secretary,
 24 California Department of Corrections and
 Rehabilitation (CDCR); ANTHONY CHAUS,
 25 Chief, Office of Correctional Safety, CDCR; and
 G.D. LEWIS, Warden, Pelican Bay State Prison,
 26

27 Defendants.

Case No. 4:09 CV 05796 CW

**DECLARATION OF GEORGE
 FRANCO IN SUPPORT OF
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

Honorable Claudia Wilken

1 I, George Franco, declare under penalty of perjury that:

- 2 1. I am a 47-year-old prisoner who has spent 20 years in solitary confinement at the Pelican
3 Bay SHU.
- 4 2. I was originally validated in 1991 as a member of the Northern Structure gang. In 2008, I
5 was deemed inactive in the Northern Structure gang. At the same time, I was deemed
6 active in the Nuestra Familia gang based on confidential statements by informants
7 claiming that I have a position within the gang, and the fact that my name appeared on
8 gang rosters found in other prisoners' cells. None of the source items relied on to retain
9 me in the SHU for another six years alleged any gang activity, as I understand those
10 words, nor any criminal conduct. True and correct copies of my 2008 inactive review
11 documents can be found at Exhibit H.
- 13 3. I often do not attend my 180-day reviews because they are a sham. In my experience, the
14 only purpose of the 180-day review is to see if a prisoner wants to debrief.
- 16 4. I am eligible for parole, but I did not attend my last Parole Board hearing because my
17 experience with the Parole Board is that they will not consider me for parole unless I am
18 released from the SHU. The Parole Board has told me that I need more programming,
19 but to get such programming, I need to get out of the SHU. For example, I took an
20 Alcoholics Anonymous program, but the Parole Board said that I needed to go to "group
21 meetings," which is impossible at the SHU.
- 23 5. I have eye problems, and I believe this problem is common to a lot of other prisoners at
24 the SHU as well. Since I have been here, I have started getting headaches and had to get
25 glasses.

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6. The SHU is very loud, which often prevents me from getting sleep and increases my anxiety. I often hear buzzing in my ears.

(7)

Between May 2010 and February 2011, I was on mail restriction and was ^{only able} unable to write ~~letters~~ → who the committee members approved.

During this time I lost contact with my son. I get very few social or family visits at the SHU, approximately one visit a year.

8. My ability to interact with other prisoners is very limited as well. In my experience, prisoners are given disciplinary write ups for merely talking to other prisoners. For example, in March 2011, I received a disciplinary violation simply for calling out to a prisoner in the next pod.

9. My prolonged solitary confinement in Pelican Bay has caused me serious harm. I have described and discussed this harm with the experts who have been retained by my lawyers in this case.

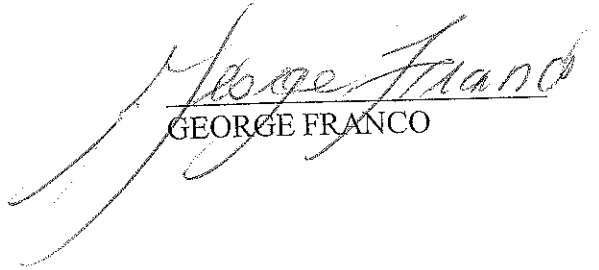
10. I was one of the eleven principal negotiators and representatives for the prisoners at Pelican Bay State Prison during the 2011 hunger strikes.

11. I am interested in being a class representative in this case because I would like to represent other prisoners who have experienced the same constitutional violations as I, and I want to help change and improve CDCR's policies. I share this common interest with all the other prisoners held in the Pelican Bay SHU, so I don't know of any reason why I would be unable to adequately represent them in our claims for injunctive and declaratory relief.

12. I have been cooperating fully with my lawyers and am responding to their requests to the best of my ability and recollection, and will continue to do that. My lawyers keep me

1 updated as to the progress of the case. I am happy with their performance, and am
2 confident that they will adequately represent me and the class.

3 I declare under penalty of perjury that the foregoing is true and correct based on my
4 knowledge and belief and that this declaration was executed on April 18, 2013, in Crescent City,
5 California.

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GEORGE FRANCO

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ADDITIONAL PLAINTIFFS' COUNSEL

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EXHIBIT H

STATE OF CALIFORNIA
CDC 128-B-2 (4/07)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

INMATE'S NAME: FRANCO, George

CDCR NUMBER: D46556

On 10/23/08 a gang validation package regarding subject was received from Institution Gang Investigator J. Beeson at PBSP. Subject was originally validated on 08/15/02 under CDCR number D46556 as a member of the NUESTRA FAMILIA [NF] prison gang. Subject was subsequently validated on 12/16/03 under CDCR number D46556 as a member of the NUESTRA FAMILIA [NF] prison gang. This CDCR 128B2 reflects additional information which updates Subject's status.

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (6)

The following items meet the validation requirements:

1. Confidential Memorandum dated 08/08/07 (Debrief)
2. Confidential Memorandum dated 10/16/07 (Written Material)
3. Confidential Memorandum dated 10/22/07 (Debrief)
4. Confidential Memorandum dated 04/10/08 (Informant)
5. Confidential Memorandum dated 10/03/08 (Written Material) - 9/12/08 prop search

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (5)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

1. Confidential Memorandum dated 07/03/07 (Written Material) - No supporting evidence attached.

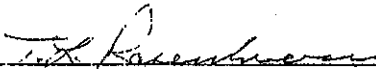
TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (1)

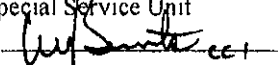
ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, George FRANCO is:

VALIDATED REJECTED

as a member of the NUESTRA FAMILIA [NF] prison gang.


T. ROSENKRANS, SPECIAL AGENT
SPECIAL SERVICE UNIT

DISTRIBUTION:
 Original - Central File
 Copy - Classification & Parole Representative/Parole Administrator I
 Copy - Institutional Gang Investigator/Region Gang Coordinator
 Copy - Office of Correctional Safety - Special Service Unit
 Copy - Inmate/Parolee 1-23-09 by 

ACTIVE/INACTIVE REVIEW
 9/12/2014 per Conf Mem dated 10/13/08
~~10/13/2014~~ documenting Prop. Search
 ELIGIBILITY DATE on 9/12/08

Date: 10/29/08

SSU GANG VALIDATION/REJECTION REVIEW

GENERAL CHRONO

NAME: FRANCO, George CDC # D-46556

CDC 128-B (REV. 4/74)

On September 29, 2008, an investigation was initiated by Institutional Gang Investigations Unit (IGI) in reference to **validated Nuestra Familia (NF) member, George FRANCO, D-46556, aka "Puppet from San Jose,"** per the California Code of Regulations (CCR), Title 15, Section 3378 (e), regarding his current gang status. FRANCO was validated as a member of the NF prison gang based upon a gang validation package submitted by Institutional Gang Investigator M. Randolph at Pelican Bay State Prison (PBSP) on August 14, 2002. The source items used to validate FRANCO are all over six (6) years old. Therefore, per CCR, Title 15, Section 3378 (e), FRANCO meets the criteria for an Active/Inactive Status Review.

1. **Source Document (Written Material)** Confidential Memorandum dated July 3, 2007, authored by Correctional Officer T. S. Buchanan, during a cell search of Antonio GUILLEN, P-81948, aka "Chuco," validated NF member, validated February 27, 1992, a calendar containing a roster of validated Northern Structure (NS) and Nuestra Familia (NF) affiliates was discovered. The information includes monikers and birthdays. Amid the names was "Puppet, August 6." This is the moniker and birthday for FRANCO. With FRANCO's moniker and birthday include in the roster of other NF/NS affiliates monikers and birthday's, shows that FRANCO is considered to be in good standings with the NF. To be in "good standings," the individual is functioning under the gang's policies, procedures, rules and guidelines.
2. **Source Document (Debrief)** Confidential Memorandum dated August 8, 2007, authored by Correctional Sergeant J. Bales. A confidential informant identified FRANCO in September 2006, as being in charge of the Street Regiment in Stanislaus County for the NF.
3. **Source Document (Written Material)** Confidential Memorandum dated October 16, 2007, authored by Correctional Officer C. Chadwick, during a cell search of Samuel LUNA, J-97489, aka "Huero," validated NS member, validated January 29, 2001, a single piece of lined paper containing ghost writing was discovered. The ghost writing contained a roster of validated Northern Structure (NS) and Nuestra Familia (NF) affiliates. The roster included monikers and corresponding codes. Amid the names was "Puppet, Sandra," this is the moniker for FRANCO. With FRANCO's moniker include in the roster of NF/NS affiliates monikers, shows that FRANCO is considered to be in good standings with the NF. To be in "good standings," the individual is functioning under the gang's policies, procedures, rules and guidelines.

4. **Source Document (Brief)** Confidential Memorandum dated October 22, 2007, authored by Correctional Officer R. Parrilla. A confidential informant identified FRANCO in January of 2005, as being in charge of the Street Regiment in Stockton, Tracy, Modesto, and Fremont for the NF.

5. **Source Document (Informant)** Confidential Memorandum dated April 10, 2008, authored by Correctional Officer D.E. Milligan. A confidential informant identified FRANCO as being the scribe for the General Advocate Office (GAO), which is David CERVANTES, C-06706, aka "DC," who is a validated NF member, validated September 25, 1979.

6. **Source Document (Written Material)** Confidential Memorandum dated October 3, 2008, authored by Correctional Officer S. Burris, during a cell search of Samuel LUNA, J-97489, aka "Huero," validated NS member, validated January 29, 2001, two rosters were discovered. The rosters of validated Northern Structure (NS) and Nuestra Familia (NF) affiliates, contained monikers along with corresponding codes. Amid the names was "Puppet, Peta, and Puppet, OdJIG." This is the moniker for FRANCO. With FRANCO's moniker include in two rosters of NF/NS affiliates, shows that FRANCO is considered to be in good standings with the NF. To be in "good standings," the individual is functioning under the gang's policies, procedures, rules and guidelines.

(Archives) FRANCO is still serving under his CDCR # D-46556, and does not have an archive file.

(WSIN) No additional information was provided by this source.

(Local Law Enforcement) Local law enforcement was not contacted as FRANCO has been in custody for the last six years.

(Paroles/Leads) Paroles were not contacted as FRANCO has been in custody for the last six years.

(Cal Gangs) No additional information was provided by this source.

(SSU/OCS) No additional information was provided by this source.

On October 1, 2008, FRANCO was cooperative with the taking of photographs for the update of his Active/Inactive Review. FRANCO has a Tabe Score of 9.1 and, therefore, does not require nor did he request staff assistance. FRANCO is not a participant in the Mental Health Delivery System.

Disclosure and Notification

On October 15, 2008, I disclosed all information used in the active/inactive review to FRANCO, and supplied him with three pre-printed itemized pages for his response. The confidential information was disclosed via CDCR 1030, Confidential Disclosure Information Forms. FRANCO was further advised that an interview regarding the information obtained during this investigation would be held not less than 24 hours from the time of this notification.

Interview

On October 16, 2008, FRANCO was interviewed, relative to the documents used in the review. FRANCO submitted the three (3) pre-printed pages I had supplied him for his response, addressing all confidential documents used in the review process, and stated he had nothing further to add to the interview.

During this Active/Inactive review period a thorough investigation of all pertinent documents contained in FRANCO's Central File for gang activity was completed by the PBSP investigator. During this review the investigator discovered 23 new documents evidencing FRANCO's gang activity. The investigator is submitting a portion of the documentation to the Office of Correctional Safety to demonstrate FRANCO's current active status.

Conclusion

After a thorough review of the evidence, I have concluded that **George FRANCO, D-46556, aka "Puppet from San Jose."** is actively participating as a member of the NF prison gang. This is supported by source items #1 thru #6. This information will be forwarded to the OCS to update FRANCO's gang status. At FRANCO's request, he will be eligible for an Inactive Gang Status Review after September 2014.



S. BURRIS
Correctional Officer
Institutional Gang Investigations
Pelican Bay State Prison



J. BEESON
Correctional Lieutenant
Institutional Gang Investigations
Pelican Bay State Prison

DATE: October 16, 2008

ACTIVE/INACTIVE GANG STATUS REVIEW CDC 128B

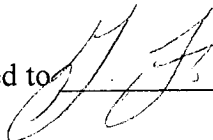
A copy of this document and his written response was supplied to  on 10-17-08 by S. BURRIS.

EXHIBIT I

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12 Attorneys for Plaintiffs
(Additional counsel listed on attached page)

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17 TODD ASHKER, DANNY TROXELL, GEORGE
RUIZ, JEFFREY FRANKLIN, GEORGE FRANCO,
18 GABRIEL REYES, RICHARD JOHNSON, PAUL
REDD, LUIS ESQUIVEL, and RONNIE
19 DEWBERRY, on their own behalf, and on behalf of
a class of similarly situated prisoners,

20 Plaintiffs,

21 v.

22 EDMUND G. BROWN, JR., Governor of the State
23 of California, MATTHEW CATE, Secretary,
24 California Department of Corrections and
Rehabilitation (CDCR); ANTHONY CHAUS,
25 Chief, Office of Correctional Safety, CDCR; and
G.D. LEWIS, Warden, Pelican Bay State Prison,

26 Defendants.
27

Case No. 4:09 CV 05796 CW

**DECLARATION OF JEFFREY
FRANKLIN IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Honorable Claudia Wilken

1 I, Jeffrey Franklin, declare under penalty of perjury that:

- 2 1. I am a 52-year-old prisoner who has spent the last 23 years in solitary confinement in a
3 windowless cell at the Pelican Bay SHU.
- 4 2. The conditions at the Pelican Bay SHU are so harsh that in 2011 I requested to be
5 transferred to any of the other three SHUs in California, where I would have a window in
6 my cell. That request was denied.
- 7 3. I have been eligible for parole since 2000. Although the parole board has characterized
8 my disciplinary history at Pelican Bay as minimal, it has repeatedly denied me parole. In
9 2001, I was explicitly told that, in order to expect a parole release date, I need to get out
10 of the SHU.
- 11 4. My prolonged solitary confinement in Pelican Bay has caused me serious harm. I have
12 described and discussed this harm with the experts who have been retained by my
13 lawyers in this case.
- 14 5. In 2006, I was denied inactive status because I was listed as a board member of George
15 Jackson University and because my name appeared on lists confiscated from other
16 prisoners.
- 17 6. I had another inactive review in 2012. I was again found to be an active gang member,
18 this time solely because my name appeared on a list in another prisoner's cell. Initially, I
19 was also accused of having communicated with someone in another pod by yelling out to
20 them, but the item was later discounted, as I was never housed in the relevant cell (nor
21 was the other prisoner). True and correct copies of my 2012 inactive review documents
22 can be found at Exhibit J.
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7. I have engaged in no gang-related misconduct during my 23 years at the SHU, despite CDCR's classification of me as an active gang member. The source item relied on to retain me in the SHU for another six years does not allege any gang activity as I understand those words, nor any criminal conduct.

8. I am interested in being a class representative in this case because I would like to represent other prisoners who have experienced the same constitutional violations as I, and I want to help change and improve CDCR's policies. I share this common interest with all the other prisoners held in the Pelican Bay SHU, so I don't know of any reason why I would be unable to adequately represent them in our claims for injunctive and declaratory relief.

9. I have been cooperating fully with my lawyers and am responding to their requests to the best of my ability and recollection, and will continue to do that. My lawyers keep me updated as to the progress of the case. I am happy with their performance, and am confident that they will adequately represent me and the class.

I declare under penalty of perjury that the foregoing is true and correct based on my knowledge and belief and that this declaration was executed on April 21, 2013, in Crescent City, California.


JEFFREY FRANKLIN

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ADDITIONAL PLAINTIFFS' COUNSEL

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Fax: (415) 552-3150

EXHIBIT J

| | | | |
|-------------------------|--------------------------------|---|------------------------------------|
| NAME FRANKLIN | CDCR# or DOB C-08545 | INSTITUTION or ADDRESS PELICAN BAY STATE PRISON | HOUSING/LOCATION D2-207L |
|-------------------------|--------------------------------|---|------------------------------------|

An investigation was completed into your suspected membership and/or association with a prison gang and/or disruptive group recognized by the California Department of Corrections and Rehabilitation as defined in Section 3000 of the California Code of Regulations. The investigation revealed sufficient evidence to identify you as a:

MEMBER ASSOCIATE IN-ACTIVE OF THE PRISON GANG DISRUPTIVE GROUP:

Black Guerrilla Family

An interview relative to this investigation and suspected gang affiliation shall be held not less than 24-hours from the date of this notification unless otherwise requested by you in writing. During this interview, you will be given an opportunity to be heard and have your opinion documented relative to the evidence considered in this validation. Written rebuttals may be submitted at the time of the interview.

DISCLOSURE OF EVIDENCE

The following source documents were considered in your identification as a member or associate of the aforementioned prison gang or disruptive group. All confidential documents shall be disclosed via CDC Form 1030, Confidential Information Disclosure Form. Each source document shall be identified by type (I.E. CDC 128-B, CDC 115, Confidential Report, etc.) and date of the report.

- 1) SOURCE ITEM- Confidential Memorandum dated November 30, 2011, (Association)/(Written Material)
- 2) SOURCE ITEM- CDCR 128B dated September 16, 2010, (Communications)

Copies of all documents and/or disclosures were provided to the inmate as required per CCR Section 3378 and Departmental Operations Manual (DOM) 52070.21.1 by:

| | | | | |
|-------------------|------------------|--|---------------------|--------------|
| NAME S. Burris | <i>S. Burris</i> | CLASSIFICATION Correctional Officer | DATE May 3, 2012 | TIME 1235 |
|-------------------|------------------|--|---------------------|--------------|

Additional comments: (Use this space to record any comments made by the inmate at the time of disclosure)

Orig: C-File
 cc: OCS
 IGI Unit
 Inmate/subject

GANG VALIDATION

DATE: 5/3/2012

EVIDENCE DISCLOSURE AND INTERVIEW NOTIFICATION

CDCR 128B

STATE OF CALIFORNIA
CDC 1030 (6/2009)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORMINMATE NUMBER C-08545 INMATE NAME: FRANKLIN

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

 a) Active/Inactive Review b) Prison Gang Validation

Submitted by, Correctional Officer S. Burris

 c) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated N/A

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

a) The confidential source has previously provided information which has proven to be true.b) Other confidential sources have independently provided the same information.c) This information provided by the confidential source is self-incriminating.d) Part of the information provided is corroborated by through investigation or by information provided by non-confidential sources.e) The confidential source is the victim.f) Staff report, the information was confiscated and not solicited by or intended for staff.g) Other (Explain)

3) Disclosure of information received.

Confidential Memorandum dated November 30, 2011, authored by Correctional Officer D. Milligan. On November 16, 2011, at Pelican bay State Prison (PBSP) during a search of a validated Black Guerrilla Family (BGF) associates property, a roster of BGF affiliates was discovered hidden within the pages of a book. Within the roster you are identified by your name (Jeffrey Franklin), and CDCR identification number (C08545). By your personal information being discovered amid a roster in a validated BGF associates possession, potentially allows for illicit BGF gang-related information to be distributed amongst the membership without being detected by custody staff. This document meets criteria set forth in CCR, Title 15, 3378 (c) (8) (G) (C) Written Material/Association.

The information is considered reliable Per California Code of Regulations (CCR), Title 15, Section 3321 as indicated above in part 2.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (ie: CDC-128-B of 5-15-86 in the confidential material folder)

Confidential Memorandum dated November 30, 2011, authored by Correctional Officer D. Milligan, in the confidential section of the Central File.

S. Burris



STAFF SIGNATURE, TITLE

5/3/2012

DATE DISCLOSED

DISTRIBUTION: WHITE --Central File; GREEN -- Inmate; YELLOW -- Institution Use

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 128-B (Rev. 4/74)NAME: **FRANKLIN, Jeffrey**CDCR# **C-08545 HOUSING PBSP D2-207L**

On May 4, 2012, the Institutional Gang Investigations Unit (IGI), completed an investigation of Inmate **FRANKLIN, Jeffrey, C-08545, moniker "Askari,"** regarding his current gang status. (*Hereafter FRANKLIN will be referred to as SUBJECT*) On June 5, 1981, SUBJECT was originally validated under CDCR number C-08545, as a member of the Black Guerrilla Family prison gang. Per the California Code of Regulations (CCR), Title 15, Section 3378 (e), there is sufficient evidence to update SUBJECT's status as a member of the Black Guerrilla Family prison gang.

The following documents are being submitted relative to this investigation:

- 1) SOURCE ITEM- Confidential Memorandum dated November 30, 2011, (Association)/(Written Material)
- 2) SOURCE ITEM- CDCR 128B dated September 16, 2010, (Communications)

(Archives) SUBJECT is still serving under his CDCR # C-08545, and does not have an archive file.

(WSIN) No additional information was provided by this source.

(Local Law Enforcement) SUBJECT's County of commitment was not contacted.

(Paroles/Leads) Paroles was not contacted as SUBJECT has been in custody for the last six years.

(Cal Gangs) No additional information was provided by this source.

(SSU/OCS) No additional information was provided by this source.

DISCLOSURE AND NOTIFICATION

SUBJECT has a TABE Score of 6.9, therefore, SUBJECT does not require staff assistance. SUBJECT is not a participant in the Mental Health Delivery System.

On May 3, 2012, at 1235 hours, SUBJECT was disclosed all information being utilized in the validation process. If applicable, SUBJECT was disclosed confidential information via CDCR 1030 Confidential Information Disclosure Form. SUBJECT was further advised an interview regarding the information obtained during this investigation would be held not less than 24-hours from the time of the disclosure.

INTERVIEW

On May 4, 2012, at 1250 hours, SUBJECT was interviewed regarding the documents utilized in the prison gang validation package to identify SUBJECT as a member of the Black Guerrilla Family prison gang. SUBJECT provided a written response addressing all documents used in the review process. SUBJECT was asked if he had anything further to add to his written rebuttal. SUBJECT stated, "I need to know who the roster was taken from in source item # 1." I informed SUBJECT the name of the individual which the roster was taken from was withheld due to safety concerns. SUBJECT stated, "But I may have tried to cell with this guy, and that is how he got my name and number." I informed SUBJECT that the roster consisted of many Black Guerrilla Family affiliates, and this individual did not write them down because he was attempting to cell with them, it was written down because he needed an accurate listing of affiliates. I then informed SUBJECT that I would inform the IGI of your concerns, and that he can make a decision on this matter. SUBJECT then stated, "I do not deny that my name and number were in the book, but I would like to know who it came from, in case I tried to cell with this individual."

CONCLUSION

Upon reviewing the written response and after a thorough review of the evidence, it was determined SUBJECT'S claims have merit and warrant further investigation. It was also determined that a reissuing of the 1030 Confidential Information Disclosure Form to elaborate on the author of the roster was an issue of safety for that individual, and a new 1030 would not be reissued. Also based on the written rebuttal provided by SUBJECT, he claims that source item number 2 should not be utilized, as he was never housed in Facility D, Unit 2, Cell 203, as claimed by the

STATE OF CALIFORNIA

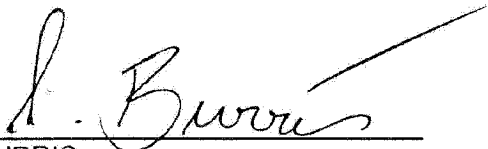
DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 128-B (Rev. 4/74)

NAME: **FRANKLIN, Jeffrey** CDCR# **C-08545** HOUSING **PBSP D2-207L**

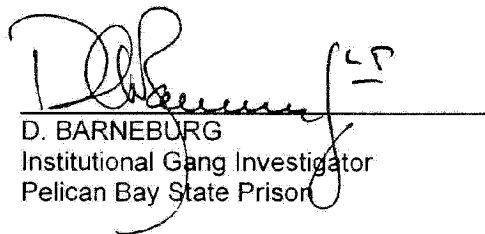
author. Also, SUBJECT claims that the CDCR 128-B dated September 16, 2010, does not articulate specific gang-related activities as provided under California Code of Regulations (CCR), Title 15, Section 3378, (C) (8) (L) Communications. After researching the claims made by SUBJECT it was discovered that in fact he was never housed in Facility D, Unit 2, Cell 203, nor was the individual he was allegedly communicating with. It is also the opinion of the IGI that the CDCR 128- B dated September 16, 2010, does not clearly articulate specific gang-related activities on SUBJECT'S behalf. Therefore, source item number 2, will be excluded as information pertaining to continued gang activity of SUBJECT for this investigation.

The IGI has concluded there is sufficient evidence to identify **FRANKLIN, Jeffrey, C-08545, moniker "Askari,"** as a member of the Black Guerrilla Family prison gang.

The aforementioned information will be forwarded to the Office of Correctional Safety for review and acceptance of SUBJECT'S prison gang validation.



S. BURRIS
Assistant-Institutional Gang Investigator
Pelican Bay State Prison



D. BARNEBURG
Institutional Gang Investigator
Pelican Bay State Prison

Orig: C-File
cc: OCS
IGI Unit
Inmate

DATE: 5/4/2012

GANG VALIDATION CHRONO

CDCR 128B

EXHIBIT K

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 11 Fax: (650) 802-3100

12 Attorneys for Plaintiffs
 (Additional counsel listed on attached page)

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

17 TODD ASHKER, DANNY TROXELL, GEORGE
 RUIZ, JEFFREY FRANKLIN, GEORGE FRANCO,
 18 GABRIEL REYES, RICHARD JOHNSON, PAUL
 REDD, LUIS ESQUIVEL, and RONNIE
 19 DEWBERRY, on their own behalf, and on behalf of
 20 a class of similarly situated prisoners,

21 Plaintiffs,

22 v.

23 EDMUND G. BROWN, JR., Governor of the State
 of California, MATTHEW CATE, Secretary,
 24 California Department of Corrections and
 Rehabilitation (CDCR); ANTHONY CHAUS,
 25 Chief, Office of Correctional Safety, CDCR; and
 G.D. LEWIS, Warden, Pelican Bay State Prison,
 26

27 Defendants.

Case No. 4:09 CV 05796 CW

**DECLARATION OF RICHARD
 JOHNSON IN SUPPORT OF
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

Honorable Claudia Wilken

1 I, Richard Johnson, declare under penalty of perjury that:

- 2 1. I am 61 years old and have spent more than 15 years in solitary confinement at the
3 Pelican Bay SHU due to my validation as a BGF member.
- 4 2. Under California's "three strikes" law, I am currently serving 33 years to life for drug-
5 related, non-violent offenses.
- 6 3. I have never incurred a major disciplinary offense while serving my current sentence.
7 Indeed, I have had only one rule violation in the 15 years I have spent at Pelican Bay
8 SHU: in 2000 I was disciplined for a mail violation. I also got a 115 violation for
9 participating in the September 2011 hunger strike, but it was later voided.
- 10 4. I suffer from serious medical conditions: osteoporosis, arthritis, hypertension, and cysts
11 in both kidneys. I also had a heart attack in 2009 while in the SHU, and take heart
12 medication. I was scheduled to be transferred to Folsom Prison because of my heart
13 condition, but was later refused transfer after my participation in the Pelican Bay hunger
14 strike. I have been told by one of the doctors here that the only path to better health care
15 for my serious conditions is to debrief to get out of the SHU.
- 16 5. My inactive reviews have largely focused on purported association with a gang. In 2010,
17 I was denied inactive status based on my possession of a copy of "N-GOMA Pelican Bay
18 Support Project, Black August 2005," a newsletter which includes dedications to alleged
19 BGF members who have died; a copy of "New African Nation Towards Black August
20 Memorial," a manuscript about African Nationalism; three pieces of artwork, including a
21 drawing of me next to George Jackson; a confidential memorandum in which I was
22 accused of being a member of a gang by an unnamed prisoner; an intercepted letter sent
23 to me by another prisoner who inquired about my health and sent his respect; and my
24
25
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1 appearance on a roster of alleged gang members found in an unidentified prisoner's cell.
2 True and correct copies of my 2010 inactive review documents can be found at Exhibit L.

3 6. None of the source items relied on to retain me in the SHU for another six years alleged
4 any gang activity as I understand those words, nor any criminal conduct.

5 7. Indeed, as my disciplinary record demonstrates, I have not been involved in any violent
6 or disruptive gang activity since my incarceration in 1997. Rather, I have been kept for
7 such a long time at the SHU because of political materials in my possession.
8

9 8. My prolonged solitary confinement in Pelican Bay has caused me serious harm. I have
10 described and discussed this harm with the experts who have been retained by my
11 lawyers in this case.
12

13 9. I am interested in being a class representative in this case because I would like to
14 represent other prisoners who have experienced the same constitutional violations as I,
15 and I want to help change and improve CDCR's policies. I share this common interest
16 with all the other prisoners held in the Pelican Bay SHU, so I don't know of any reason
17 why I would be unable to adequately represent them in our claims for injunctive and
18 declaratory relief.

19 10. I have been cooperating fully with my lawyers and am responding to their requests to the
20 best of my ability and recollection, and will continue to do that. My lawyers keep me
21 updated as to the progress of the case. I am happy with their performance, and am
22 confident that they will adequately represent me and the class.
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1 I declare under penalty of perjury that the foregoing is true and correct based on my
2 knowledge and belief and that this declaration was executed on April 20, 2013, in Crescent City,
3 California.

4
5 
6 RICHARD JOHNSON

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ADDITIONAL PLAINTIFFS' COUNSEL

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San Francisco, CA 94102
Tel: (415) 255-7036
Fax: (415) 552-3150

EXHIBIT L

STATE OF CALIFORNIA
CDC 128-B-2 (4/07)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

INMATE'S NAME: JOHNSON, Richard

CDCR NUMBER: K53293

On June 10, 2010 a gang validation package regarding subject was received from Institution Gang Investigator D. Barneburg at PBSP. Subject was originally validated on April 7, 1982 under CDCR number B60372 as a Member of the Black Guerrilla Family prison gang. This CDCR 128B2 reflects additional information which updates Subject's status.

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (6)

The following items meet the validation requirements:

1. CDCR 128B dated May 27, 2010 (Written Material)
2. CDCR 128B dated May 27, 2010 (Written Material)
3. CDCR 128 B dated April 16, 2009 (Tattoos and Symbols)
4. Confidential Memorandum dated February 10, 2009 (Debriefing Reports)
5. Confidential Memorandum dated July 10, 2008 (Communications)
6. Confidential Memorandum dated January 15, 2008 (Written Material)

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (6)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (0)

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, Richard JOHNSON K53293 is:

VALIDATED REJECTED

as a Member of the Black Guerilla Family prison gang.


C. M. Rogers, Special Agent
SPECIAL SERVICE UNIT

| | |
|--|---|
| <p>DISTRIBUTION: Original - Central File Copy - Classification & Parole Representative/Parole Administrator I Copy - Institutional Gang Investigator/Region Gang Coordinator Copy - Office of Correctional Safety - Special Service Unit Copy - Inmate/Parolee date: <u>7/15/10</u> by: <u>A. PEREZ CCT</u></p> | <p>ACTIVE/INACTIVE REVIEW 05/27/16 Based on source item(s) #1 ELIGIBILITY DATE</p> |
|--|---|

Date: 6/11/2010

SSU GANG VALIDATION/REJECTION REVIEW

GENERAL CHRONO

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 128-B (Rev. 4/74)NAME and NUMBER: **Johnson, Richard****K-53293**HOUSING: **PBSP D2-218L**

On May 27, 2010, the Institution Gang Investigations Unit (IGI) initiated an investigation of inmate **JOHNSON, Richard, K-53293, moniker "Razor,"** validated Black Guerrilla Family (BGF) member, regarding his current gang status. On May 27, 2010, the property of JOHNSON was searched to ascertain any BGF gang-related information for his pending Active/Inactive Review Investigation. Discovered amid his personal property was a copy of "N-GOMA Pelican Bay Support Project" magazine. N-GOMA was founded by validated BGF member Gerald REED C-40517, aka "Gahisi Sowande" (deceased). The magazine is used by the BGF as a conduit to pass messages to and from members/associates.

The issue titled "Black August 2005" is a dedication to the passing of REED. The "Black August Movement" was established by the BGF to commemorate all their fallen comrades. Through out this issue, numerous members of the BGF have written dedications to REED.

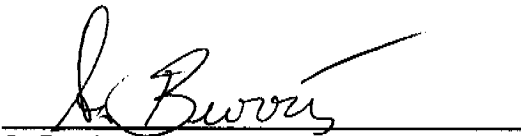
One of the dedications on page seven of the magazine was written by BGF Supreme Commander Kenneth CARTER B-52119, aka "Fati". CARTER writes in part, "Please extend to any of his surviving relatives, heart-felt and belated condolences from his family behind the lines." Meaning BGF members still in prison.

BGF member James DOUGLAS H-64600, aka "Askari Yero" also wrote a dedication on page seven, indicating that he was housed in PBSP SHU during the same time REED was. He writes, "He was dedicated to the struggle...", indicating that he was committed to the BGF.

On page eight, BGF members Charles COLEMAN C-60680, aka "Iceberg"; James HOLIDAY D-46027, aka "Doc"; and James HARVEY C-48884, aka "Abdul O. Shakur", all wrote dedications to REED. HARVEY included in his dedication numerous names of BGF members who have died. Some of the names on the list were: W.L. Nolan, George Jackson (both are co-founders of the BGF), William Christmas, James McClain, Jonathan Jackson (George Jackson's brother) (all three of which were killed in the attempted escape plan from the Marin County Courthouse in 1970), and Jeffery Gaulden (assumed the leadership of the BGF after Jackson's death in August 1971). HARVEY closes his dedication with, "In Constant Armed Struggle. Guerrilla Love! Blood In My Eye!!" "Blood In My Eye," is a direct reference to the book Blood In My Eye, authored by George Jackson, which is disallowed at Pelican Bay State Prison (PBSP), due to it's nexus to the BGF prison gang and George Jackson.

On page ten, there are two dedications written by validated BGF member, Aron CASTLIN J-99402, aka "Akili".

Based upon the item found in JOHNSON's cell, it is clear that he continues to identify and associate with the BGF prison gang. This document will be considered as one point in the validation process of JOHNSON as a member of the BGF, as well as the BGF members who had written dedications in the publication. N-GOMA magazine is allowable material at PBSP; however inmate JOHNSON chose to retain this issue of the magazine for almost five years, demonstrating his continued loyalty to the BGF prison gang and its members. This document will be utilized as one source point of validation as prescribed in California Code of Regulations (CCR), Title 15, Section 3378 (c) (8) (C), Written Material.



S. Burris
Assistant-Institutional Gang Investigator
Pelican Bay State Prison

DOCUMENT MEETS
VALIDATION REQUIREMENTS
IN CCR TITLE 15 SECTION 3378

DATE: 5/27/2010

GANG INFORMATION

CDCR 128B


DO NOT ISSUE INMATE COPY OF MAGAZINE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDCR 128-B (Rev. 4/74)NAME and NUMBER: **Johnson, Richard****K-53293**HOUSING: **PBSP D2-218L**

On May 27, 2010, the Institution Gang Investigations Unit (IGI) initiated an investigation of inmate **JOHNSON, Richard, K-53293, moniker "Razor,"** validated Black Guerrilla Family (BGF) member, regarding his current gang status. On May 27, 2010, the property of JOHNSON was searched to ascertain any BGF gang-related information for his pending Active/Inactive Review Investigation. Discovered amid his personal property was a copy of "New African Nation Towards Black August Memorial". This typed manuscript identified as being produced by the NARN Collective Think Tank on July 13, 2003. "NARN," stands for New Afrikan Revolutionary Nationalism (NARN), a term that has been identified as a front for the BGF. Within the manuscript are the historical facts of "Black August". "Black August" is a concept which was established by the BGF to commemorate all of their fallen comrades. The BGF picked the month of August due to the fact that several members and associates of the BGF had been killed in the month of August. These members include George Jackson (co-founder of the BGF, killed during an attempted escape from San Quentin State Prison on August 21, 1971,) Jeffery Gaulden (Commander of the BGF after the death of Jackson, killed during a football game at San Quentin State Prison on August 1, 1978), William Christmas, James McClain, and Jonathan Jackson (all three killed on August 7, 1970, during an attempted escape at the Marin County Courthouse,) death of Alvin Miller, Cleveland Edwards, and W. L. Nolan, who were shot and killed by correctional staff during an incident with the Aryan Brotherhood, (this incident actually took place on January 13, 1970, but BGF utilize the date of August 13, 1970, to commemorate their death.) The BGF also utilize other occurrences not directly involving the BGF, but occurred in the month of August. This includes the Watts Riots in August 1965, arrival of the first black slaves in the 13 colonies in August 1619, Underground Railroad August 1850, the birth of Marcus Garvey August 17, 1887, and birth of Black Panther Fred Hampton on August 30, 1948. Also within this manuscript it describes the BGF origins of Black August. A special tribute is made to "Adama Kambon" Peggy Carter, deceased spouse of Kenny Carter, validated BGF member. She was the first Chair person of the Black August Organizing Committee. At the end of the manuscript are a series of questions about Black August to test any reader.

Based on my training and experience as a gang investigator, I have concluded that JOHNSON retained this BGF based propaganda within his personal property to demonstrate his continued loyalty and devotion to the BGF prison gang, as well as, to utilize this material for training purposes. Although this BGF propaganda has a date of July 13, 2003, JOHNSON chose to retain this material in his property for future use. Therefore this document should be utilized as one source point of validation as prescribed in California Code of Regulations (CCR), Title 15, Section 3378 (c) (8) (C), Written Material.



 S. Burris
 Assistant-Institutional Gang Investigator
 Pelican Bay State Prison

DOCUMENT MEETS
 VALIDATION REQUIREMENTS
 IN CCR TITLE 15 SECTION 3378

DATE: 5/27/2010

GANG INFORMATION

CDCR 128B

DO NOT ISSUE INMATE COPY OF MANUSCRIPT

STATE OF CALIFORNIA

Number: K-53293 Name: JOHNSON

DEPARTMENT OF CORRECTIONS
CDC 1288 (Rev. 4/74)
Housing: D2-218

On Monday April 13, 2009, I personally conducted a search of Security Housing Unit, Facility D, Unit 2, Cell 218L, solely occupied by inmate **RICHARD JOHNSON, K-53293, a.k.a. "Razor"** a validated Black Guerrilla Family (BGF) member, During the course of the search, three different copies of hand drawn artwork were discovered (attached).

The first drawing has the words "The Dragon Has Come", in the upper left hand corner with two dragons encompassing a Black Panther. The Dragon is an identifying symbol of membership in the BGF. Black inmates who associate themselves with the BGF utilize this symbol to show their loyalty to the BGF. The Dragon is associated with George Lester Jackson the founder of the BGF who was known as "The Dragon".

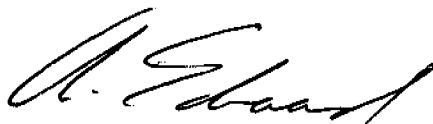
The Second piece of artwork has two dragons hovering over George Jackson the co-founder of the BGF, with the words "Black August Resistance" as a boarder. "Black August" or the Black August movement is a concept which was established by the BGF to commemorate all of their fallen comrades. The BGF picked the month of August due to the fact that several members and associates of the BGF had been killed in the month of August. These members include George Jackson (co-founder of the BGF, killed during an attempted escape from San Quentin State Prison on August 21, 1971,) Jeffery Gaulden (Commander of the BGF after the death of Jackson, killed during a football game at San Quentin State Prison on August 1, 1978), William Christmas, James McClain, and Jonathan Jackson (all three killed on August 7, 1970, during an attempted escape at the Marin County Courthouse,) death of Alvin Miller, Cleveland Edwards, and W. L. Nolan, who were shot and killed by correctional staff during an incident with the Aryan Brotherhood, (this incident actually took place on January 13, 1970, but BGF utilize the date of August 13, 1970, to commemorate their death.) The BGF also utilize other occurrences not directly involving the BGF, but occurred in the moth of August. This includes the Watts Riots in August 1965, arrival of the first black slaves in the 13 colonies in August 1619, Underground Railroad August 1850, the birth of Marcus Garvey August 17, 1887, and birth of Black Panther Fred Hampton on August 30, 1948. By JOHNSON utilizing the Black August concept to pay tribute and homage to highly-regarded BGF gang members who died for the "advancement," shows that JOHNSON is still actively participating in the ideology of the BGF gang.

The third is a copy of an original hand drawn piece of artwork depicting R. JOHNSON next to G.L. Jackson (George Lester Jackson) with their CDCR numbers and the word "Till Death" directly under the to portraits showing Johnson's direct allegiance to the BGF as well as the memory of George Lester Jackson. Members and associates of the BGF hold Jackson in high regard and base their ideologies and philosophy on the structure that Jackson helped establish. BGF members believe Jackson to be a martyr, and utilize pictures that depict Jackson as a symbol of their dedication and devotion to the gang.

This document should be considered as one point in the validation process of **JOHNSON** as a member of the BGF. This documentation meets the criteria for gang involvement as prescribed in California Code of Regulations (CCR) Title 15, Section 3378 (c) (8) (B) (G), Symbols/Association.

ORIG: C-FILE
cc: AWC
INMATE
PROGRAM
CCI
UNIT (2)

**DOCUMENT MEETS
VALIDATION REQUIREMENTS
IN CCR TITLE 15 SECTION 3378**



A. Schaad
CORRECTIONAL OFFICER

DATE:04-16-09

GANG INFORMATIONAL CHRONO

Inst: PBSP

STATE OF CALIFORNIA
CCC 1030 (6/2009)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORMINMATE NUMBER K-53293 INMATE NAME: JOHNSON

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

 a) Active/Inactive Review b) Prison Gang Validation

Submitted by, Correctional Officer S. Burris

 c) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated N/A

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

a) The confidential source has previously provided information which has proven to be true.b) Other confidential sources have independently provided the same information.c) This information provided by the confidential source is self-incriminating.d) Part of the information provided is corroborated by through investigation or by information provided by non-confidential sources.e) The confidential source is the victim.f) Staff report, the information was confiscated and not solicited by or intended for staff.g) Other (Explain)

3) Disclosure of information received.

Confidential Memorandum dated February 10, 2009, authored by Correctional Sergeant R. Bishop. On July 25 and 26, 2008, at Pelican Bay State Prison, a validated Black Guerrilla Family (BGF) member identified you (JOHNSON) as holding the rank of general for the BGF prison gang.

The information is considered reliable Per California Code of Regulations (CCR), Title 15, Section 3321 as indicated above in part 2.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (ie: CDC-128-B of 5-15-86 in the confidential material folder)

Confidential Memorandum dated February 10, 2009, authored by Correctional Sergeant R. Bishop, in the confidential section of the Central File.

S. Burris



STAFF SIGNATURE, TITLE

6/1/2010

DATE DISCLOSED

DISTRIBUTION: WHITE --- Central File; GREEN --- Inmate; YELLOW --- Institution Use

STATE OF CALIFORNIA
CDC 1030 (6/2009)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORMINMATE NUMBER K-53293 INMATE NAME: JOHNSON

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

 a) Active/Inactive Review b) Prison Gang Validation

Submitted by, Correctional Officer S. Burris

 c) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated N/A

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

a) The confidential source has previously provided information which has proven to be true.b) Other confidential sources have independently provided the same information.c) This information provided by the confidential source is self-incriminating.d) Part of the information provided is corroborated by through investigation or by information provided by non-confidential sources.e) The confidential source is the victim.f) Staff report, the information was confiscated and not solicited by or intended for staff.g) Other (Explain)

3) Disclosure of information received.

Confidential Memorandum dated July 10, 2008, authored by Correctional Counselor II, M. Pena. On May 1, 2008, a letter was stopped and confiscated by Pelican Bay State Prison (PBSP), Institutional Gang Investigations Unit. The letter was authored by a validated Black Guerrilla Family (BGF) member at Corcoran State Prison (COR) and being circumvented (third party) to a validated BGF member at PBSP. Within the letter, the author inquires about your health, as well as the health of two other BGF members at PBSP. The author also sends his respect to you and the other two BGF members at PBSP from COR.

The information is considered reliable Per California Code of Regulations (CCR), Title 15, Section 3321 as indicated above in part 2.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (ie: CDC-128-B of 5-15-86 in the confidential material folder)

Confidential Memorandum dated July 10, 2008, authored by Correctional Counselor II, M. Pena, in the confidential section of the Central File.

S. Burris


 STAFF SIGNATURE, TITLE

6/1/2010

DATE DISCLOSED

DISTRIBUTION: WHITE --- Central File; GREEN --- Inmate; YELLOW --- Institution Use

STATE OF CALIFORNIA
CDC 1030 (6/2009)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORMINMATE NUMBER K-53293 INMATE NAME: JOHNSON

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

 a) Active/Inactive Review b) Prison Gang Validation

Submitted by, Correctional Officer S. Burris

 c) CDC-114-D. Order and Hearing for Placement in Segregated Housing dated N/A

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

a) The confidential source has previously provided information which has proven to be true.b) Other confidential sources have independently provided the same information.c) This information provided by the confidential source is self-incriminating.d) Part of the information provided is corroborated by through investigation or by information provided by non-confidential sources.e) The confidential source is the victim.f) Staff report, the information was confiscated and not solicited by or intended for staff.g) Other (Explain)

3) Disclosure of information received.

Confidential Memorandum dated January 15, 2008, authored by Correctional Officer B. Thornton. On January 7, 2008, at Pelican Bay State Prison, a Black Guerrilla Family (BGF) membership roster was discovered in the personal property of a validated BGF member. Within the roster (Path Finder Index) was your name (Johnson, R.).

The information is considered reliable Per California Code of Regulations (CCR), Title 15, Section 3321 as indicated above in part 2.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (ie: CDC-128-B of 5-15-86 in the confidential material folder)

Confidential Memorandum dated January 15, 2008, authored by Correctional Officer B. Thornton, in the confidential section of the Central File.

S. Burris


STAFF SIGNATURE, TITLE

6/1/2010

DATE DISCLOSED

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