

California Department of Corrections and Rehabilitations

Armstrong v. Brown
Board of Parole Hearings
Remedial Plan



REMEDIAL PLAN

**Amended
December 1, 2010**

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I. POLICY

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to provide equal access to all parole proceedings to inmates/parolees with disabilities and to comply with the Americans with Disabilities Act (ADA) and the *Armstrong* remedial plan.

No qualified inmate/parolee with a disability as defined in Title 42 of the United States Code, Sections 12101 - 12213 shall, because of that disability, be excluded from equal and effective participation, to the best of his or her ability, in parole proceedings.

II. PURPOSE

Pursuant to the *Armstrong v. Schwarzenegger* Injunction, CDCR is mandated to ensure that inmates and parolees with disabilities are able to participate in parole proceedings to the same extent as non-disabled inmates and parolees. It is the purpose of this Remedial Plan to establish procedures for the implementation of the Injunction.

III. SCOPE

The policy contained within this *Armstrong v. Schwarzenegger* CDCR Parole Proceedings Remedial Plan specifically applies to ***parole proceedings and staff involved in those proceedings***.

Parole proceedings by definition include: Service of Hearing Rights, Return to Custody Assessments, Revocation Hearings, Revocation Extension Hearings, Life Prisoner Hearings (Documentation Hearings, Initial Parole Consideration Hearings, Subsequent Parole Consideration Hearings, Progress Hearings, Rescission Hearings and *In Re Stanworth* Hearings), and Mentally Disordered Offender (MDO) Hearings. Parole proceedings also include any event related to the hearing that occurs before or after the hearing. These events include preparations for the hearing, psychiatric evaluations, Central File (C-File) reviews, obtaining letters of support, developing lifer parole plans, and administrative reviews (i.e. BPT Forms 1074). The Remedial Plan applies to all of the Department's adult institutions, adult parole facilities, and to all inmates/parolees who have disabilities under the Americans with Disabilities Act (ADA) whether or not the disability impacts placement.

Additionally, the court determined that following are parole proceedings:

- Notice of conditions of parole
- Inclusion in the Lifer Prisoner's Board Report information regarding the prisoner's ability to access programs previously recommended by the Board of Parole Hearings (BPH)
- Communication of special conditions of parole for parolees released to Not in Custody (NIC) status pending revocation of parole

- Consideration of Remedial Sanctions in lieu of returns to custody for parolees pending revocation of parole
- Other events deemed parole proceedings.

CDCR may modify the Remedial Plan to provide a more effective remedy. However, CDCR is required to notice Plaintiffs' counsel regarding any changes to this Remedial Plan and comply with the Ralph C. Dills Act.

IV. RIGHT TO A REASONABLE ACCOMODATION

All inmates/parolees who have a disability under the ADA have the right to a reasonable accommodation at a parole proceeding, as defined in Section III of this Remedial Plan. The CDCR staff is responsible to ensure that: (1) the inmate/parolee is made aware of this right and informed how to request a reasonable accommodation, and (2) that the inmate/parolee has equal access to all parole proceedings.

The BPT Form 1073, Notice and Request for Assistance at Parole Proceeding, provides written notice to the BPH ADA Coordinator of an inmate's/parolee's need and/or request for reasonable accommodation related to a documented or claimed disability for a parole proceeding. A BPT Form 1073 shall be completed at the initial parole proceeding contact for every inmate/parolee, whether or not he/she has a disability, and the information from the 1073 should be entered into the Disability and Effective Communication System (DECS).

The Division of Adult Institutions (DAI), Division of Parole Operations (DAPO), Division of Correctional Health Care Services (DCHCS) and the BPH share responsibilities in various parole proceedings, which have significantly different processes. As such, the requirements of these staff vary in responsibility depending on the type of proceeding. To ensure this plan is appropriately implemented and adhered to, it has been organized to separately identify the processes in both the institution and the parole arenas as they relate to the various parole proceedings.

V. IDENTIFICATION

The CDCR staff will identify, through review of the Disability and Effective Communication System (DECS) and completion of the BPT Form 1073, those inmates/parolees who require and/or request a reasonable accommodation at a parole proceeding. Completion of the BPT Form 1073 includes a review of all documents in DECS and the C-File or field file which may identify a disability or need for an accommodation and an interview with the inmate/parolee. DECS must be checked prior to completion of Section 1 of BPT Form 1073.

All inmates received and parolees returned to CDCR are screened and evaluated for disabilities, as well as medical and mental health needs during their Reception Center (RC) processing. In addition, the evaluation process is ongoing at mainline institutions. Documentation of these screenings/evaluations should be recorded in the inmate/parolee's C-File and DECS. Therefore, the review of the file will assist the staff in identifying inmates with a potential need for a reasonable accommodation.

Most recent pertinent source documents that may provide information for identifying inmates/parolees with disabilities include the following:

- BPT Form 1073 Revised (10/04)** Notice and Request for Assistance at Parole Proceeding
Identifies an inmate's/parolee's need and/or request for a reasonable accommodation at a parole proceeding.
- CDC Form 128B** Chrono-General
May be used to document results of the Test of Adult Basic Education (TABE)¹ Complete Battery Reading Score or the Grade Point Level (GPL), which identifies inmates/parolees who have tested at GPL level of 4.0 or lower. If no TABE score is available a GPL of 4.0 or lower may be used.
- CDC Form 128C** Chrono-Medical-Psychiatric-Dental
Documents special concerns such as mental/physical limitations and/or health care needs related to the inmate's/parolee's disability. Documents the inmate's/parolee's level of care in the Mental Health Services Delivery System (MHSDS).
- CDC Form 128C-1 or CDC Form 128C-1A** Chrono-Reception Center Medical Clearance/Restriction Information
Addresses special medical/dental/psychological condition(s) identified while in the RC.
- CDC Form 128C-2** Chrono-Recommendation for Adaptive Support
Identifies inmate's/parolee's cognitive functioning level and, if necessary, the level of adaptive services required under the Clark Remedial Plan.
- CDC Form 1845** Inmate/Parolee Disability Verification
Establishes whether an inmate/parolee has a physical disability. It is limited to mobility, vision, hearing and speech disabilities.
- CDCR Form 7410** Chrono-Comprehensive Accommodation
Identifies accommodations and appliances prescribed for inmates.
- CDC Form 611 Revised (5/01)** Release Program Study
Contains medical/psychiatric and other disability information obtained as a result of a C-File review.
- Other** Any other documentation in the C-File that verifies a learning disability.

¹The TABE reading score of four or less means the Complete Battery as a specific type of test being used as described in the TABE Examiner's Manual. The 4.0 grade-range equivalent, as described in the manual, leaves less room for interpretation as to what "four" means. When "TABE reading score of four or less" is used, the meaning therefore is: the TABE Complete Battery reading score of four (4.0) grade-range equivalent or less.

VI. ACCOMMODATIONS

A. ACCESS

Equal access to parole proceedings shall be made available to inmates/parolees with qualified disabilities, which include, but are not limited to, the following:

- Verified physical disabilities, whether or not the disability impacts placement consistent with the Disability Placement Program (DPP). This includes permanent disabilities related to mobility, vision, hearing, and speech.
- Identified developmental disabilities consistent with the Developmental Disability Program (DDP).
- Mental health needs, which require participation in the MHSDS, regardless of the level of care.
- Learning disabilities. While CDCR is not required to verify learning disabilities, CDCR does recognize documentation in the C-File that verifies a learning disability. In addition, a reading score of 4.0 or lower may be reflective of a learning disability.

Equal access shall be achieved by use of accommodations such as auxiliary aids, sign language interpreter, staff assistance, or trained attorneys. For inmates/parolees with mobility and vision impairments, the CDCR will ensure accessible hearing sites

B. EFFECTIVE COMMUNICATION

Reasonable accommodation for effective communication in parole proceedings shall be afforded inmates/parolees with disabilities, e.g., vision, speech, hearing, developmentally disabled, and learning disabled inmates. Auxiliary aids, which are reasonable, effective, and appropriate to the needs of the inmate/parolee, shall be provided when simple written or oral communication is not effective.

The standard for equally effective communication is higher in parole proceedings and other due process functions. It is the responsibility of CDCR staff to provide effective communication to qualified disabled inmates/parolees in parole proceedings. The degree of accommodation that is required under these circumstances shall be determined on a case-by-case basis in keeping with the inmate's/parolee's needs.

If the staff member is required to use an alternate method of communication, including simple English, to effectively communicate with the inmate/parolee, he/she shall document on the related form (e.g., BPT Form 1073, CDC Form 128B documenting an Olson Review for life prisoner hearings, etc.) and in DECS how he/she communicated with the inmate/parolee. The information shall also include the method used, the determination that the inmate/parolee understood the process, the basis for that determination and how the determination was made. The recommended method of determining whether an inmate/parolee understands the communication is to have him/her repeat the communication in their own words.

DAPO Form 1515 – Notice and Conditions of Parole – has been revised to include an “Effective Communication” section. Staff completing the 1515 Form with the inmate/parolee shall indicate on the form what effective communication method was provided as a result of the file review and DECS review, and shall indicate whether and how the inmate/parolee understood what was communicated.

C. ATTORNEY ASSISTANCE

1. **Attorneys Assigned:** Attorneys will be provided for Revocation and Revocation Extension Proceedings and MDO Hearings. The BPH will continue to provide attorneys to indigent inmates during Life Prisoner Hearings wherein the inmate is being considered for parole pursuant to current policy. These include Initial, Subsequent, Progress, and Rescission Parole Consideration Hearings, and In Re *Stanworth* hearings. These inmates/parolees will be allowed to waive representation if it is determined by the BPH Commissioner that they are able to make a knowing, voluntary, and intelligent waiver, unless they meet the mandatory criteria for attorney assignment, and in MDO cases.
2. **Mandatory Attorney Cases** – the following inmates/parolees shall be assigned attorneys and shall not be allowed to waive their pre-hearing and hearing rights, including waivers of appearance, stipulations to unsuitability; waivers of hearings, and waivers of representation:
 - All inmates presently receiving treatment at the Department of Mental Health (DMH), Enhanced Outpatient Program (EOP), or Mental Health Crisis Bed (MHCB) level of care in the MHSDS.
 - All parolees who suffer from a mental disorder, and if incarcerated would require treatment at the DMH, EOP, or MHCB level of care in CDCR’s MHSDS.
 - All inmates/parolees who have been identified by CDCR as being included in the DDP.
 - All inmates with a learning disability including inmates with a TABE score of 4.0 or below.
3. **Presumptive Attorney Cases** – staff will presume that the following inmates/parolees need an attorney, unless there is documentation, or other reliable information that indicates that an attorney is not needed:
 - All inmates participating in the Correctional Clinical Case Management System (CCCMS) level of care in the MHSDS.
 - All parolees who presently suffer from a mental disorder, and if incarcerated would require treatment at the CCCMS level of care in the MHSDS.
 - All inmates/parolees with a learning disability including those with a TABE score of 4.0 or below.

4. No Attorney Assigned: Documentation Hearings When requested by the BPH, the DAI will assign a staff assistant to assist the inmate during the documentation hearings. The BPH shall assign staff assistants for hearings when:
- The inmate/parolee requests one;
 - The Commissioner or Deputy Commissioner determines that the inmate/parolee is having difficulty understanding or communicating and the difficulty does not involve some other form of disability.
 - Correctional or other staff notifies the Commissioner or Deputy Commissioner of any such difficulty they suspect.
 - The Inmate/parolee is a participant in CDCR mental health programs, such as CCCMS and EOP; has been identified with a developmental disability; has a learning disability; or has a TABE score of 4.0 or below.

D. AUXILIARY AIDS/EQUIPMENT

Below are the accommodations identified for specific disabilities. This is merely a guide and is not all-inclusive as to the means by which a disabled inmate/parolee can be accommodated. The inmate's/parolee's request for a particular type of accommodation shall be given primary consideration and shall be granted unless the request is unreasonable for specific, articulated reasons allowable under ADA, or unless other effective accommodations are available.

1. MOBILITY IMPAIRMENTS

The BPH ADA Coordinator, working in conjunction with the Classification and Parole Representative (C&PR), Reception Center Correctional Counselor III (RC CC-III), Institution's ADA Coordinator and/or DAPO Regional ADA Coordinator, is responsible to ensure that parole proceedings are held in an accessible CDCR facility and to provide accessible transportation to parole proceedings (vehicle, wheelchair, etc.) The BPH ADA Coordinator is responsible to ensure that parole proceedings in non-CDCR facilities are accessible and to provide accessible transportation to parole proceedings (vehicle, wheelchair, etc.).

2. HEARING IMPAIRMENTS

The auxiliary aid or service necessary to ensure effective communication with a hearing impaired inmate/parolee will depend on the degree of the hearing impairment.

For hearing impaired inmates/parolees whose primary communication method is by sign language, BPH will provide a certified sign language interpreter via a cooperative effort with the C&PR/RC CC-III/DAPO Regional ADA Coordinator/Institution's ADA Coordinator. **No other CDCR personnel will serve this function.**

In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee and shall be granted unless the request is unreasonable for specific, articulated reasons allowable under ADA, or unless other

effective accommodations are available. An inmate's/parolee's ability to lip-read or read written notes shall not be the sole source used as a means of effective communication in parole proceedings, unless the inmate/parolee has no other means of communication, or it is the inmate's/parolee's preferred means of communication. If written notes are used by staff to assist in effective communication, they shall be attached to the related document. When staff are required to use an alternate method of communication to effectively communicate with the inmate/parolee, they shall document the method used, the determination that the inmate/parolee understood the process, the basis for that determination and how the determination was made on the related form applicable to the particular hearing.).

Accommodations available for inmates/parolees with hearing impairments to ensure effective communication to the best of his/her ability shall include:

- Assistive listening devices
- Computer terminals
- Real time captioning
- ADA trained panel attorney*
- Sign language interpreters
- Oral and intermediary interpreters
- Written communication
- Telecommunication Device for the Deaf (TDD) machines
- A combination of the any of the above

3. VISION IMPAIRMENTS

Vision impairments range from partial loss to total loss of vision. The auxiliary aid or service necessary for the inmate/parolee will depend on the degree of vision impairment. In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee and shall be granted unless the request is unreasonable for specific, articulated reasons allowable under ADA, or unless other effective accommodations are available.

The following auxiliary aids and services may be made available for inmates/parolees with vision impairments to ensure effective communication to the best of his/her ability:

- Audio-tape
- Braille
- Electronic equipment (reading machines)
- Large print
- Magnifying devices
- Qualified Reader
- Staff assistance
- ADA trained panel attorney

4. SPEECH IMPAIRMENTS

Speech impairments range from mild to severe and are characterized by stuttering and/or difficulty in producing sounds and/or difficulty in producing or understanding language.

The following auxiliary aids may be available to speech impaired inmates/parolees to ensure participation in parole proceedings to the best of the individual's ability:

- Communication books or boards
- Computer terminals
- Speech synthesizers
- TDD machines
- ADA trained panel attorney

5. MENTAL/PSYCHOLOGICAL/DEVELOPMENTAL DISORDERS

Qualified individuals with mental, psychological, or developmental disabilities may require one or more of the following accommodations:

- ADA trained panel attorney
- Forms revised into simple English
- Impartial advocates (Regional Centers)
- Sign language interpreters
- Staff assistance
- Staff clinicians

Effective communication with inmates/parolees with mental/psychological disorders may require using basic communication skills and avoiding complex words or complicated concepts.

6. LEARNING DISABILITIES

A learning disability is a lifelong disorder in one or more basic psychological processes involved in understanding or using language. It may interfere with one's ability to listen, think, speak, read, write, spell, or do mathematical calculations. School based definitions may specify a significant discrepancy between the individual's intelligence and his/her academic achievement.

Effective communication with inmates/parolees with learning disabilities may require basic communication skills in a patient, respectful, dignified manner and avoiding complex words or complicated concepts.

CDCR is not required to test inmates/parolees for learning disabilities. However, for the purpose of this remedial plan , a Test of the Adult Basic Education (TABE) Complete Battery Reading Score of 4.0 or lower (or, in its absence, a GPL of 4.0 or lower), and/or an inmate/parolee's claim of a learning

disability shall be used as a trigger to alert CDCR to the possible presence of a learning disability and possible need for accommodation.

In the event an inmate/parolee with a reading score of 4.0 or less cannot read and comprehend documents in parole proceedings and has not yet been assigned an attorney, staff shall provide reasonable accommodations to ensure effective communication (e.g., staff assistance, electronic readers, and sign language interpreter, etc.). Staff shall also provide such reasonable accommodations to inmates/parolees who have TABE scores higher than 4.0 if required to ensure effective communication.

The following accommodations may be available to inmates/parolees with learning disabilities to ensure equal participation in any parole proceedings to the best of the individual's ability:

- ADA trained panel attorney
- Additional time
- Audio taped materials
- Electronic equipment
- Highlighter pens and markers
- Staff Assistance
- Forms revised in simple English
- Large print

VII. COORDINATION OF SERVICES AND ACCOMODATIONS

The CDCR shall ensure that inmates/parolees with disabilities have equal access to parole proceedings. Maintaining, providing and coordinating the reasonable accommodations noted herein are the responsibility of the following:

A. BPH ADA COMPLIANCE UNIT

The responsibilities of the BPH ADA Compliance Unit (ADACU), as they relate to this Remedial Plan, include the following:

1. Maintain a list of sources that have auxiliary aids that are available on short notice.
2. Maintain the assistive listening devices, and magnifying devices at BPH Headquarters that are available upon request.
3. Ensure auxiliary aids and/or needed equipment is forwarded by overnight mail to the appropriate RHC or C&PR/RC CC-III.
4. Maintain a system to track the type of equipment requested and the location of the auxiliary aids/equipment.

5. Test auxiliary aids and equipment regularly to ensure it is operable. The ADACU will make all efforts to avoid postponements of parole proceedings due to maintenance or repair of equipment.
6. Maintain a supply of BPH forms in the following alternative formats:
 - Audio-cassettes
 - Braille
 - Large print
 - Simple English
7. Review and make determinations on requests for reasonable accommodations via the BPT Form 1073(a).
8. Maintain the Disability and Effective Communication System (DECS).
9. Ensure that parole proceedings are held in locations that are physically accessible to inmates/parolees with mobility and/or vision impairments.
10. Respond to 1074 Forms submitted by inmates/parolees.
11. Track reports of non-compliance at county jails.

B. BPH SCHEDULING UNIT

The BPH Scheduling Unit shall coordinate the hiring of communication services for BPH proceedings. Communication services will be provided through a professional agency that provides the services necessary to ensure effective communication with deaf, hard of hearing, or deaf-blind people.

Communication services provided by the BPH may include:

1. **REAL TIME CAPTIONING:** This service provides simultaneous written text of spoken language either on a computer screen or overhead projector by professional court reporters.
2. **SIGN LANGUAGE INTERPRETER:** A qualified sign language interpreter is a person who is able to sign to the individual who is deaf what is being said, and who can voice what is being signed by the individual who is deaf. This communication must be conveyed effectively, accurately, and impartially, through the use of any specialized vocabulary. The requirement of "impartial" interpreting services means that the sign language interpreter must not have a personal relationship with the individual with a disability or otherwise be biased for or against that person.
3. **ORAL INTERPRETER:** This service involves transliteration and interpretation by use of facial expression, lip/mouth movement, and hand gestures, for deaf and hard-of-hearing individuals who do not rely on sign language for communication.

4. **TACTILE:** This service is a form of sign language interpretation specifically for deaf-blind individuals.
5. **INTERMEDIARY INTERPRETING:** An intermediary interpreter may be needed when the communication mode of a deaf person is so unique that interpreters who are not deaf cannot adequately access it. A deaf intermediary with specialized communication skills communicates using the unique method with the inmate/parolee and signs to the hearing interpreter, who then voices what has been signed.

C. INSTITUTIONS/PAROLE FIELD UNITS

1. The CC-I/Field Unit Notice Agent (FUNA)/Decentralized Revocation Unit Notice Agent (DRUNA) shall identify the reasonable accommodation needs of the inmate/parolee.
2. The C&PR/RC CC-III shall provide the services and/or equipment deemed appropriate to reasonably accommodate a disabled inmate/parolee at a parole proceeding.
3. If the CDCR institution/facility does not have the recommended equipment, the C&PR/RC CC-III shall immediately notify the BPH ADA Coordinator. The BPH ADA Coordinator will ensure the requested equipment is provided, or provide another equally effective means that will accommodate the inmate/parolee and ensure his/her access and/or effective communication at the parole proceeding.

VIII. BPT FORM 1073 – NOTICE AND REQUEST FOR ASSISTANCE AT PAROLE PROCEEDING

A revised BPT Form 1073, Notice and Request for Assistance at Parole Proceeding, is included in this Remedial Plan. The following are instructions on how to complete the form. These instructions are also contained on the back of the original BPT Form 1073 for easy reference.

A. SECTION I: PRE-INTERVIEW FILE AND DECS REVIEW (STAFF ONLY)

1. This section requires completion of a file and DECS review to determine whether or not the inmate/parolee needs assistance with effective communication or has a disability which needs to be accommodated at the parole proceeding. The staff member shall print his/her name, sign and date the form in this Section to acknowledge completion of the file review. (In revocation proceedings, the Agent must ensure either the CDC Form 611 (05/01 or later) OR a Parolee Disability Review Sheet is in the field file.
2. When initiating the form, it is important for the staff member to first write the inmate's/parolee's name, CDCR number, the type of parole proceeding, and the institution/region/county jail where the inmate/parolee is located at the bottom of the form.

3. When completing this form, the staff member shall review the file for the corresponding source documents as indicated below and designated staff shall attach a copy when a verified/identified disability is noted.
4. The appropriate boxes shall be checked for items that identify a disability by staff prior to initial Service.
 - a) **Mental Health Concerns** – check this box if a CDC Form 128C indicates the inmate/parolee is included in the Mental Health Services Delivery System. Circle the Level of Care and write the date of the chrono.
 - b) **Developmental Disability** – check this box if a CDC Form 128C2 indicates the inmate/parolee is included in the developmental disability program. He/she must be categorized in one of the following DDP categories: DD1, D1A, DD2, or DD3. Circle the appropriate code and write the date of the chrono. (If the code is NDD or DDO, do not check this box.)
 - c) **Physical Disability** – check this box if there is a CDC Form 1845, which identifies a verified disability. Circle the appropriate disability (there may be more than one) and write the date of the CDC Form 1845.
 - d) **Other Disability** – check this box if there is a document which states the inmate/parolee has a disability other than those identified on the forms indicated above. Write the name of the document and its date.
 - e) **Learning Disability** – check this box if there is a document which states the inmate/parolee has a learning disability. Write the name of the document and its date.
 - f) **No Disabilities Identified from the file review.** If all of the above boxes are unchecked, check this box.
5. **Reading Level** – check the box and write the inmate/parolee reading level (if available) and his/her total grade point level (GPL). (If neither the reading level nor the GPL are in the file, do not check the box and write N/A.)
6. **Non-English Speaking** – if the inmate's/parolee's primary language is not English, check this box and write the language he/she speaks as identified in the file review.

NOTE: If it has been determined in Section I that an accommodation and/or interpreter is required, the employee shall provide that accommodation to the inmate/parolee prior to completing Section II.

B. SECTION II: INMATE/PAROLEE ADA RIGHTS & SELF IDENTIFICATION

1. The staff member shall advise the inmate/parolee that he/she has a parole proceeding pending and the reason for the proceeding. The staff member shall read or ask the inmate/parolee to read out loud the rights statement at the beginning of this section.
2. The remaining portion of this section is for the inmate/parolee to disclose assistance he/she needs for the proceedings. If the parolee cannot complete this section, the staff member shall provide assistance by recording the responses given by the inmate/parolee

C. SECTION III: INITIAL SERVICE OF RIGHTS (STAFF ONLY)

1. In this section, the staff member shall document his/her observations. The staff member shall document whether the inmate/parolee appeared to understand his/her rights (described on the form handed out with the BPT Form 1073) and charges, if any. If after providing assistance for effective communication and the inmate/parolee still appears to have difficulty understanding, the staff member shall check the appropriate box. If an alternate method of communication is used, the staff member shall check the appropriate box and indicate the type of accommodation.
2. If the parolee is housed in a county jail facility, and requests an accommodation or the CDCR staff member identifies the need based on observations during the serve process, the staff member will notify the county jail staff member supervising the parolee in the location where the serve process is conducted. Notification should occur prior to the CDCR staff member departing the county jail facility, but no later than two business days after completing the serve.
3. Any observations from the interview the staff member believes are pertinent should be written in the "Additional Comments" portion of this Section. This includes the name of any county jail staff that has been notified of a parolee's ADA needs, and any response provided by the county jail staff.
4. The staff member shall print his/her name, sign and date the form.

D. SECTION IV: BPH REVIEW FOR INTERNAL USE (NON-LIFER ONLY) – SCHEDULING

In revocation and revocation extension cases where a Decentralized Revocation Unit (DRU) is involved, DRU staff will complete this section prior to attorney assignment and review it after the attorney consultation. In cases where a DRU is not involved, the DC will complete this section as part of their review.

E. SECTION V: BPH REVIEW FOR INTERNAL USE – DECS VERSION – DCs

In the DECS electronic version of BPT Form 1073, the paper form's Section IV is separated into two sections, Sections IV and V. With the exception of these separate sections, the printed version of the electronic form is identical to the traditional paper form. Deputy Commissioners shall use the "View ADA/EC History" function in DECS

to enter accommodations provided at a hearing. This must be completed at the hearing or immediately after the hearing

F. DISTRIBUTION OF THE BPT FORM 1073

The staff member conducting the interview shall provide the inmate/parolee with his/her copy and return the original to the appropriate Case Records staff. Case Records staff shall make copies (if necessary) and complete distribution as indicated below:

1. The **original** BPT Form 1073 shall be filed in the BPH Section of the inmate's/parolee's C-File.
2. The **second page** shall be provided to the BPH ADA Coordinator.
3. The **third page** shall be provided to the inmate/parolee by the staff member conducting the interview, upon its completion.
4. The **fourth page** will be forwarded by the DRU or the institution Case Records staff to the parole unit for placement in the parolee's field file upon completion of the revocation process, and should be included in the lifer packet.
5. For Life Prisoner and MDO cases where a disability is claimed or identified, the C&PR/RC CC-III shall mail the BPT Form 1073 with supporting documents to the BPH ADACU on a weekly basis to Board of Parole Hearings, Attention: BPH ADACU 1515 K Street, Suite 600, Sacramento, CA 95814.
6. For Life Prisoner and MDO In all cases where the BPT Form 1073 does not reflect a claimed or identified disability, a copy of the BPT Form 1073 shall not be forwarded to BPH ADACU. The original BPT Form 1073 shall be maintained in the C-file.
7. For Life Prisoner cases a copy of the original BPT Form 1073 shall be provided to the attorney prior to the life parole consideration hearing. The copy shall be included in the preparatory file that is sent to the attorney prior to the parole consideration hearing.

IX. DISABILITY AND EFFECTIVE COMMUNICATION SYSTEM (DECS): OVERVIEW OF BPH PROCEDURES

The Disability Effective Communication System (DECS) is a statewide, computerized networked disability/effective communication database that can be utilized by CDCR staff to view disability information and necessary accommodations for inmates and parolees in parole proceedings. The purpose of DECS is to provide historical information relative to an inmate/parolee's disability and accommodation needs, to use as a tool for planning accommodations for the parolee/inmate during the imminent parole proceeding, and, by updating, to maintain a real time tracking of individual parole/inmate disability data. CDCR staff **must** view DECS prior to meeting with the inmate/parolee for a parole proceeding or scheduling a parole proceeding and then enter into the DECS updated ADA information.

Prior to meeting with the inmate/parolee for a parole proceeding, a review of the DEC is required. DECS will provide information that will assist staff in identifying needed accommodations for the face-to-face interview with the inmate. Staff shall update DECS by transposing the information from the paper BPT Form 1073 to the appropriate sections of the electronic BPT Form 1073.

BPH staff involved in scheduling a hearing shall review DECS for the purpose of identifying needed accommodations for hearing. BPH scheduling staff shall update Section IV of the electronic BPT Form 1073 documenting the accommodations to be provided for the hearing.

The following is an overview of the procedures regarding how CDCR staff will utilize DECS when performing their job duties in all four types of proceedings. Detailed BPH and DAPO procedures on staff responsibilities and utilization of DECS are contained in this document elsewhere and can be found in the sections addressing different parole proceedings.

In completing Sections I through III of the BPT Form 1073, staff will review DECS prior to meeting with the inmate/parolee or for the scheduling of a BPH proceeding. The staff shall review any previous disability-related documents, including electronic 1073 Forms, and should check the DEC DAI Summary page. The staff shall ensure that accommodations previously provided shall be considered to ensure equal access and effective communication. For example, if a previous BPT Form 1073 or the DECS DAI Summary page indicated that documents were read aloud to the inmate/parolee, this information shall be considered in that the staff person meeting with the inmate/parolee for the parole proceeding may have to read documents to the inmate/parolee. After meeting with the inmate/parolee and completing the paper BPT Form 1073, staff shall update DECS by transposing the information to the appropriate sections of the electronic BPT Form 1073 as soon as possible but within 24 hours (one business day) of completing the interview. Disability-related documents and DECS must also be reviewed prior to staff completing Section IV of the 1074 Form in advance of a BPH proceeding.

When conducting parole proceedings that do not require completing a BPT Form 1073 such as developing lifer parole plans, psychiatric evaluation, letters of support, etc., staff shall review DECS and document accommodations provided by completing the electronic form, "BPH Parole Proceeding Accommodations Provided" in DECS.

For Lifer Prisoner parole proceedings, CDCR will provide DECS access to attorneys and mental health clinicians via the internet and at terminals in institutions (clinicians only) which will allow a review of inmate/parolee disability and effective communication information prior to meeting with the inmate/parolee. The clinicians must also update DECS by documenting accommodations provided.

X. INSTITUTIONS – PAROLE PROCEEDINGS

The C&PR, RC CC-III, CC-I and the ADA Coordinator within the institutions are the essential personnel relative to ensuring the implementation of this Remedial Plan. Responsibilities for Division of Adult Institutions (DAI) staff and procedures related to parole proceedings (as defined in Section III of this Plan) within the institutions are set forth below.

A. LIFE PRISONER HEARINGS

The CDCR coordinates the scheduling of Life Prisoner Hearings with the BPH Scheduling Unit. The BPT Form 1073 must be completed in accordance with Section VIII and instructions on the back page of the BPT Form 1073.

1. BPT FORM 1073 AND RIGHTS PACKET PROCESS

The institution Lifer Desk will prepare the Life Prisoner Hearing Rights packet and submit it to the CC-I for Service. The Life Prisoner Hearing Rights packet will include the following documents:

- BPT Form 1002 Life Prisoner Notice of Hearing Rights
 - BPT Form 1003 Request for Attorney/Waiver of Attorney or **Withdrawal Request**
 - BPT Form 1073 Notice and Request for Assistance at Parole Proceeding
 - BPT Form 1001(a) Life Prisoner Hearing-Extraordinary Action and Decision
- a) At least 180 days prior to the hearing, the institution Lifer Desk staff shall notify and provide a BPT Form 1073 and Rights packet with the notice advising the CC-I that a Board Report is required on a life prisoner.
- b) Form 1073: The CC-I shall complete the BPT Form 1073 and Rights packet 150 days prior to the hearing.
- 1) The CC-I shall initiate the BPT Form 1073, review the C-File and DECS, and complete Section I, as described in Section VIII of this Remedial Plan and instructions on the back page of the BPT Form 1073.
 - 2) The CC-I shall also ensure that copies of any ADA source documents in the C-File that are identified in Section I of the BPT Form 1073 are attached for inclusion in the packet.
 - 3) The CC-I shall review DECS prior to interviewing the inmate or serving any hearing related documents.
 - 4) The CC-I shall ensure that all reasonable accommodations are provided including the need of a sign language interpreter. If a sign language interpreter is needed to effectively communicate with the inmate, the CC-I shall contact the institution ADA Coordinator to coordinate the date and time for the services of a sign language interpreter.
 - 5) If during the interview process, the inmate requests a sign language interpreter, or it otherwise becomes apparent that the inmate requires a sign language interpreter to effectively communicate, then the CC-I shall not complete noticing the inmate without the assistance of a sign language interpreter. The CC-I shall stop the Serve and coordinate the services of a sign language interpreter as indicated above.

- 6) If a review of DECS or the BPT Form 1073 indicated a request for a reasonable accommodation including a sign language interpreter, the CC-I shall ensure that necessary accommodations are provided by contacting the Institution ADA Coordinator.
 - 7) The BPH ADA Coordinator and C&PR will be responsible for ensuring that the accommodation is provided to the inmate for completion of all parole proceedings, including the hearing. The BPH ADA Coordinator shall assist institutions in arranging accommodations that are not available at the institutions.
- c) The inmate shall complete Section II of the BPT Form 1073 with the help of the CCI if necessary.

CDCR staff must always ensure effective communication in any situation involving an inmate's waiver of a hearing or attorney appointment. Forms used for waivers of rights to hearings or attorneys shall not be presented to inmates requiring mandatory or presumptive attorney appointment as described in Section VI.C., above.

d) Form 1002: The CC-I shall:

- 1) Review the BPT Form 1002 with the inmate and ask if he/she has any questions regarding his/her rights.
- 2) Have the inmate sign, write his/her CDCR number, and date the bottom of BPT Form 1002 stating he/she has been read/told his/her rights and provided the opportunity to ask questions.
- 3) Sign and date the BPT Form 1002 acknowledging that the rights have been explained to the inmate and that you provided him/her an opportunity to ask questions and provided the answers. The CC-I shall also identify his /her title.

e) Form 1003: The CC-1 shall:

- 1) Review the BPT Form 1003 with the inmate explaining the Request for Attorney, Waiver of Attorney and Withdrawal of Request for an Attorney sections with the inmate and advise the inmate to complete as soon as possible and returned by the no later than date. Advise inmates with learning or developmental disabilities of any additional resources available in helping them understand and complete the form.

f) Requesting/Waiving an Attorney: The CC-I shall:

- 1) Inform the inmate if he/she is requesting the assistance of an attorney at the hearing, he/she shall check the box in the Request for Attorney Section.

- 2) If the inmate is retaining his/her own attorney, inform the inmate to check the box that states, "I have or can retain my own attorney" and have the inmate write his/her attorney's name, address and telephone number.
 - 3) Have the inmate sign, write his/her CDCR number and date Request for Attorney section of the form.
 - 4) If the inmate is requesting the assistance of a state appointed panel attorney to assist him/her, advise the inmate that both boxes, the "I request the assistance of an attorney at my hearing" and the "I wish to have the state provide an attorney" must be checked.
 - 5) Have the inmate sign, write his/her CDCR number and date the form in this section declaring under penalty of perjury that he/she is indigent (explain indigent prior to the inmate signing).
 - 6) If the inmate is requesting to waive the right to have an attorney, advise the inmate to check the box that states, "I waive my right to have an attorney" in the Waiver of the Attorney section.
 - 7) If the inmate does not want the assistance of an attorney at the hearing, advise the inmate to write the date of the interview on the line, ensure that the inmate understands that he is scheduled to appear before the Board of Parole Hearings formerly referred to as Board of Prison Terms, inform him of his right to be represented by an attorney at the hearing including a state appointed attorney if he is indigent; however, by checking the box indicating that he is declining attorney assistance.
 - 8) Have the inmate sign, write his CDCR number and date the form in the Waiver of Attorney section.
 - 9) If the inmate is requesting to withdraw his or her request for an attorney, advise the inmate to check the box that states, "I withdraw my request for an attorney."
 - 10) Explain to the inmate that his/her signature acknowledges that his/her decision to withdraw the request for an attorney is not being made as a result of any promises or duress and explain that as a result of this request, he/she will not be able to request an attorney again for this hearing.
 - 11) Have the inmate sign, write his/her CDCR number and date the form in the Withdrawal of Request for an Attorney section.
- g) Form 1001: The CC-I shall review the BPT Form 1001 (a), Life Prisoner Hearing-Extraordinary Action and Decision with the inmate, and shall:
- 1) Explain to the inmate that there are three actions identified in the top portion of the BPT 1001 (a); "Do not want to attend", "Ask to postpone" and "Do not

want hearing, not ready for parole.” If the inmate is requesting one of the three options, check the appropriate box.

- 2) Advise the inmate of the type of hearing and mark the appropriate box.
- 3) Explain the “Give up the Right to Attend Hearing” section to the inmate. If the inmate does not want to attend the hearing, ensure the appropriate box is checked identifying whether or not he/she would like someone to attend the hearing for him/her. For example, if the inmate is requesting to send his/her attorney, mark the box that states, “I will send my own attorney.
- 4) Explain the “Postpone the Hearing” section to the inmate. If the inmate is requesting to postpone the hearing, the inmate must acknowledge that he/she understands the type of hearing that is planned and identifying the month and year that he/she is requesting the BPH to re-schedule the hearing.
- 5) Explain the “Not Ready for Parole” section to the inmate. If the inmate is requesting to postpone the hearing because he/she is not ready for parole, then the inmate must acknowledge that he/she understands the type of hearing that is planned, identify the length of time he/she will be ready for the hearing (i.e., one year) and identify the reasons he/she is not ready under the “Reasons” section.
- 6) Have the inmate sign and date the bottom section of the form.
- 7) Witness the signature and date the form.
- h) Upon completion of the service of the rights and charges with the inmate, the CC-I shall complete Section III of the BPT Form 1073.
- i) Upon completing the BPT Form 1073 in accordance with Section VIII of this Remedial plan, the CC-I shall update DECS in accordance with Section IX as soon as possible but within 24 hours of completing the interview and return the BPT Form 1073 and Rights Packet to the institution Lifer Desk staff.
- j) In every parole proceeding as defined in Section III of this Remedial Plan, which includes but not limited to Service of the Rights packet, the interview for Board Report, assistance with Lifer Parole Plans, letters of support, review of Board Report, conducting an *Olson* Review, and assistance with appeals relating to ADA accommodations, the CC-I shall review DECS prior to meeting with the inmate. This includes parole proceedings that do not require the completion of the BPT Form 1073. The CC I shall update DECS in accordance with Section IX as soon as possible but within 24 hours of completing the interview.
- k) If DECS or the BPT Form 1073 indicates a request for a reasonable accommodation, the BPH ADA Coordinator and C&PR are responsible for providing the necessary accommodations to ensure that the inmate has equal access to the Life Prisoner Hearing. If the reasonable accommodation is not

available, the C&PR will contact the BPH ADA Coordinator for assistance in acquiring a reasonable accommodation and forward the BPT Form 1073 and all disability related documents, if applicable to the BPH ADA Coordinator.

- l) BPH ADA Coordinator will document his/her decision regarding the request on the BPT Form 1073(a), enter this information into DECS in accordance to Section IX and coordinate the accommodation with the C&PR.
- m) If the Life Prisoner hearing requires a psychiatric evaluation, the institution Lifer Desk staff shall notify the BPH at 180 days prior to the hearing that a Psychiatric Report is required on a life prisoner and that the final Psychiatric Report is due 90 days prior to the hearing.

2. REASONABLE ACCOMMODATIONS

- a) CDCR staff shall access DECS prior to contacting an inmate undergoing a parole proceeding and prior to scheduling a parole proceeding, to determine whether the inmate has a disability or requires a reasonable accommodation. After review of the BPT 1073 and DECS, if it is determined that the inmate requires a reasonable accommodation, it is the responsibility of BPH or institution staff to ensure that the accommodation is provided. Parole proceeding contacts include, but are not limited to Service of Rights Packet, Attorney consultations, interviewing the inmate for Board Report and for psychiatric report, reviewing Board Reports and psychological reports with the inmate, assisting the inmate with Lifer Parole Plans, conducting an *Olson* Review, and assisting with appeals related to ADA accommodations.
- b) Reasonable accommodations to ensure effective communication, as described below, can be for cognitive or physical disabilities. Regardless of the type of disability, if the inmate has been identified as requiring a reasonable accommodation to ensure effective communication, at each contact the institution and BPH staff must ensure the following is adhered to:
 - 1) If an inmate **requires any reasonable accommodation including the use of a sign language interpreter to effectively communicate**, the CC-I and BPH clinician shall conduct their interviews with the inmate regarding the parole proceeding with the assistance of whatever is needed to effectively communicate, including a include a sign language interpreter if necessary. If the BPH or institution staff member arrives at the interview and discovers that additional accommodations and or assistance are needed in order for the prisoner to understand and participate in the proceedings, the staff member shall stop the interview and contact the institution's ADA Coordinator to arrange for those accommodations.
 - i The CC-I shall document on the related parole proceeding document, e.g., Service of Rights Packet, Board Report, CDC Form 128B for Olson Review, (BPH Clinician for Psychiatric Report), etc., how the information was communicated and if the inmate appeared to understand the process.

- ii **If the CC-I or BPH clinician believes that even with their assistance the inmate does not appear to understand the process**, they shall document that opinion on the related forms, and return them to the C&PR. The C&PR shall contact the BPH ADA Coordinator via telephone to advise him/her of the concerns regarding the inmate's ability to understand. The C&PR shall fax the BPT Form 1073 to the BPH ADA Coordinator during this process for review. The BPH ADA Coordinator shall advise the C&PR on the telephone how to proceed, as well as document his/her decision on a BPT Form 1073(a). The BPT Form 1073(a) shall be faxed to the C&PR and then mailed to the institution for inclusion in the C-File.
- c) The BPH Commissioners and Deputy Commissioners are responsible for reviewing DECS and the BPT Form 1073 to ensure effective communication with the inmate during the hearing. In addition, the BPH Commissioner chairing the hearing shall document any assistance provided to achieve effective communication, whether effective communication was achieved and how the determination was made on the hearing results provided to the inmate. If a needed accommodation has not been provided for the hearing, the Deputy Commissioner/Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date. After the hearing, the BPH Deputy Commissioner will update DECS in accordance with Section IX as soon as possible but no later than 24 hours of the hearing.
- d) When requested by the BPH, the Division of Adult Institutions shall assign a staff assistant to assist the inmate during BPH hearings. The staff assistant shall check and update DECS prior to assisting the inmate.

3. ATTORNEY ASSISTANCE

- a) As described in Section VI, C, of this Remedial Plan, the BPH will provide attorneys to indigent inmates during Life Prisoner Hearings, including Initial, Subsequent, Progress, Rescission, and In Re *Stanworth* Hearings. When requested by the BPH, the institution will assign a staff assistant to assist the inmate during hearings where the inmate requires an accommodation, but an attorney is not assigned, as described in Section VI.C.4. The staff assistant will review DECS prior to meeting with the inmate.
- b) Attorneys assigned to inmates with disabilities shall be required to complete ADA training.
- c) Section VI, C, delineates the inmates with disabilities who shall not be allowed to waive attorney representation when assigned.

- d) CDCR will provide DECS access to the attorneys via the internet which will allow a review of inmate disability and effective communication information and prior to the meeting with their client. The attorney shall update DECS by documenting accommodations provided.
- e) The BPH Lifer Desk staff shall arrange any needed accommodations that may be required for Life Prisoner attorney consults or Life Prisoner hearings. In doing so, they may consult with the institution's ADA Coordinator.

4. BOARD REPORT

- a) At Life Prisoner parole consideration hearings, the BPH Panel should not instruct an inmate to participate in programs in which he or she is unable to participate due to his or her disability.
- b) If the BPH Panel, at the previous hearing, directed the inmate to participate in a program in which the inmate was unable to participate due to his/her disability, the CC-I shall include in the current Board Report information regarding the type of disability the inmate has and how it may have affected the inmate's ability to participate in the recommended program.
- c) The C&PR shall ensure that this information is in the Life Prisoner Board Report for inmates with disabilities.

5. PSYCHIATRIC REPORT

- a) The BPH Forensic Assessment Division (FAD) Lifer Unit Chief Psychologist is responsible to ensure that the assigned BPH clinician has reviewed DECS and is aware of the reasonable accommodations required for the contacts with the inmate relative to the Psychiatric Report.
- b) If an inmate requires a reasonable accommodation, the BPH clinician shall ensure the accommodation is provided in each contact and complete the necessary documentation. If during the interview, a BPH Clinician becomes aware that the inmate needs a reasonable accommodation, the BPH clinician shall take all reasonable steps to arrange that accommodation, including contacting the BPH FAD Lifer Unit for the accommodation needed. If the accommodation cannot be provided during the interview, the interview will be rescheduled with the necessary accommodation. The BPH clinician is responsible for updating the information in DECS. Upon completion of the Psychiatric Report, the BPH clinician shall forward the original to the Records Office.
- c) Records staff will provide a copy of the Board Report with a copy of the Psychiatric Report and a CDC Form 128B to the CC-I for issuance to the inmate. The CC-I shall provide a copy of the Board Report and Psychiatric Report to the inmate and have the inmate sign a CDC Form 128B acknowledging receipt.

- d) If the inmate requires a reasonable accommodation to effectively communicate, other than an auxiliary aide (eyeglasses, hearing aid, etc), the assigned attorney shall be responsible to review the Psychiatric Report with the inmate.

All other procedures relative to the Life Prisoner Hearing process not addressed in this Remedial Plan shall remain consistent with the mandates of the Penal Code, the applicable regulations, and BPH policy.

B. MENTALLY DISORDERED OFFENDER HEARINGS

1. COORDINATION

The policies and procedures for pre-screening of potential MDO remain in effect. The issues pertinent to this Remedial Plan begin with the psychiatric evaluation reports pursuant to Penal Code (PC) Section 2962. All MDO candidates are automatically afforded ADA trained legal representation for the MDO Certification, Placement, and Annual Review Hearings. The MDO Coordinator at each institution shall liaison with the institution's Health Care Services or the Division of Correctional Health Care Services (DCHCS) MDO Unit, as current process provides, and the Department of Mental Health (DMH) to coordinate all cases requiring an evaluation.

2. EVALUATIONS

Each inmate referred must have evaluations completed by both CDCR and DMH clinicians. In the event of a Difference of Opinion, the institution's MDO Coordinator shall liaison with the BPH MDO Coordinator to schedule two independent evaluators.

- a) The CDCR and DMH clinicians will be responsible to access the Disability and Effective Communication System (DECS) or obtain a printout of the DECS DAI Summary page from the MDO Coordinator. The clinicians will use this information to ensure they provide reasonable accommodations and use effective communication (simple language and/or any other means of effective communication) during the interview. The clinician shall document any reasonable accommodation(s) and whether effective communication was provided. The clinician will also indicate within the body of the report how the determination was made that the inmate understood the process. The clinician shall ensure DECS is updated to indicate what accommodation(s), if any, were provided. The Facility Captain of the DCHCS MDO Unit shall liaison with DMH and the institution's MDO Coordinator to ensure that this process is completed.
- b) The institution MDO Coordinator shall assist in the scheduling of CDCR, DMH and BPH clinicians for evaluations, liaison with medical and custody staff for clinician escorts, inmate ducats and prepare gate pass clearances for the C&PR/RC CC-III or designee signature as needed.

- c) Copies of the CDCR and DMH reports shall be forwarded to the DCHCS MDO Unit. In those cases where CDCR contracts for the evaluation, copies of the evaluation shall be forwarded to the DCHCS MDO Unit by the institution. When cases are found to be positive by both CDCR and DMH, or there is a Difference of Opinion, the DCHCS MDO Unit will contact the institution MDO Coordinator and request supporting documentation for preparation of the certification package. The certification package will be forwarded by the DCHCS MDO Unit to the BPH Forensic Assessment Division (FAD)-MDO Unit for review and certification or assignment of independent evaluators.
- d) If the inmate is certified as MDO, the BPH FAD-MDO Unit will fax the BPT Form 1400, Certification Order, to the C&PR/RC CC-III, DCHCS MDO Unit, Agent in Charge, at Atascadero Sub Unit, Parole Agent II at Patton, and the State Hospital Coordinator.

3. BPT FORM 1073 AND RIGHTS PACKET PROCESS

- a) Upon receipt of the BPT Form 1400, the institution MDO Coordinator shall complete Section I of the BPT Form 1073. Completion of the BPT Form 1073 shall be consistent with instructions in Section VIII of this Remedial Plan and the instructions on the back page of the BPT Form 1073. The institution MDO Coordinator shall also review DECS prior to interviewing the inmate. The MDO Coordinator shall also attach to the BPT Form 1073 copies of any ADA source documents in the C-File that are identified in Section I of the BPT Form 1073.
- b) The institution MDO Coordinator shall serve the following packet to the inmate:
 - BPT Form 1073 Notice and Request for Assistance at Parole Proceeding (with attached disability-related documents)
 - BPT Form 1400 Certification Review
 - BPT Form 1401 Information for Persons Certified as Mentally Disordered Offenders
 - BPT Form 1410 Notice of Rights to Certification Hearing
 - BPT Form 1410(A) Notice of Rights to Certification Hearing-Acknowledgment
 - CDCR Form 1515 Notice and Conditions of Parole
- c) Prior to meeting with the inmate, the institution MDO Coordinator shall ensure that all reasonable accommodations are provided to complete the Service, including the need for a sign language interpreter. The MDO Coordinator shall contact the institution ADA Coordinator for assistance.
- d) If a review of DECS or the file reflects that the inmate requires the assistance of a sign language interpreter, the institution MDO Coordinator shall contact the institution ADA Coordinator to arrange the date and time for the interpreter to complete the Service.

- e) If during the interview the institution MDO Coordinator determines while completing the BPT Form 1073, that the inmate requires assignment of a sign language interpreter or any other necessary effective communication accommodation, the institution MDO Coordinator shall stop the Service and contact the institution ADA Coordinator following the steps outlined in paragraph (c) above.
- f) If DECS or the BPT Form 1073 indicates a request for a reasonable accommodation that is not available at the institution, the MDO Coordinator shall contact the C&PR/RC CC-III who shall fax the BPT Form 1073 to the BPH ADA Coordinator. The BPH ADA Coordinator will document his/her decision regarding the request on a BPT Form 1073(a) and fax it to the C&PR/RC CC-III. The BPH ADA Coordinator and C&PR/RC CC-III will be responsible to ensure the accommodation is provided to the inmate for completion of all parole proceedings, including the hearing.
- g) The institution MDO Coordinator shall complete Section II of the BPT Form 1073 in accordance with Section VIII of this Remedial Plan; review the packet and the MDO process with the inmate.
- h) The inmate shall be advised of his/her special condition for treatment at a State Hospital pursuant to PC 2962, and that failure to sign the CDCR Form 1515, Notice and Conditions of Parole, shall result in a Rules Violation Report (RVR) being generated and referred to the BPH for a Parole Revocation Hearing.
- i) The institution MDO Coordinator shall serve and review with the inmate the inmate's CDCR Form 1515, BPT Form 1410, and BPT Form 1410(A) and complete Sections III of the BPT Form 1073 in accordance with Section VIII and the instructions on the back page of the BPT Form 1073. The MDO Coordinator shall update DECS in accordance with Section IX as soon as possible but within 24 hours of completing the interview.

4. PROCESS WHEN INMATE SIGNS NOTICE AND CONDITIONS OF PAROLE

- a) If the inmate signs his/her Conditions of Parole, the C&PR/RC CC-III shall liaison with personnel at Atascadero State Hospital (ASH) for male inmates and Patton State Hospital (PSH) for female inmates to facilitate transfer.
- b) If not previously submitted, the C&PR/RC CC-III shall fax a completed copy of the BPT Form 1073 and supporting documents to the BPH ADA Coordinator.
- c) The C&PR/RC CC-III shall fax the following documents to the designated Parole Region, Agent of Record (AOR), and Parole Agent II at ASH/PSH:
 - BPT Form 1073
 - BPT Form 1400
 - BPT Form 1410(A)
 - CDCR Form 1515

d) The C&PR/RC CC-III shall arrange for the transfer of the inmate to the appropriate State Hospital. The following documents shall be faxed to ASH for male inmates and PSH for females:

- BPT Form 1073
- BPT Form 1400
- BPT Form 1410(A)
- CDC Form 801, Notice of Detainer (if inmate is received at ASH or PSH prior to date of parole)
- CDCR Form 1515
- CDC Form 7371, Confidential Medical/Mental Health Information Transfer (ASH/PSH only - fax 24 to 48 hours prior to admission)

5. CERTIFICATION HEARINGS

- a) Upon admission to the State Hospital, the assigned Parole Agent shall review DECS and the BPT Form 1073 for the presence of a disability. If a disability is indicated and the reasonable accommodation is not available, the Parole Agent shall contact the BPH ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430, Mentally Disordered Offender Scheduling Request, to the BPH FAD-MDO Unit for scheduling of the Certification Hearing. The Parole Agent shall note the unavailability of an accommodation on the form.
- b) Upon receipt of the BPT Form 1430, the BPH FAD-MDO Unit shall review that form, DECS, and BPT Form 1073 and arrange reasonable accommodations as needed prior to scheduling a Certification Hearing. The BPH ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate at the hearing.
- c) The BPH Deputy Commissioner is responsible for reviewing DECS and the BPT Form 1073 to ensure effective communication with the inmate during the Certification Hearing and all other MDO hearings where a BPH Deputy Commissioner acts as a decision-maker or communicates with an MDO inmate/parolee. In addition, the BPH Deputy Commissioner chairing the hearing shall document any assistance provided to achieve effective communication, whether effective communication was achieved, and how the determination was made on the hearing results provided to the inmate. If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.
- d) After the hearing, the BPH Deputy Commissioner will update DECS as outlined in Section IX as soon as possible but no later than 24 hours of the hearing.

6. PLACEMENT HEARINGS

- a) If the MDO (inmate/parolee) has not been placed in outpatient treatment within 60 calendar days of admission to the State Hospital, the assigned Parole Agent shall review the DEC and complete Section I of the BPT Form 1073 as indicated in Section VIII of this Remedial Plan and the instructions on the back page of the BPT Form 1073.
- b) The Parole Agent shall meet with the inmate/parolee, review the BPT Form 1073 and complete Sections II. The Parole Agent shall serve the inmate/parolee with a BPT Form 1420, Notice of Right to Placement Hearing, and BPT Form 1420(A), Notice of Right to Placement Hearing-Acknowledgment.
- c) The Parole Agent shall complete Section III of the BPT Form 1073. The Parole Agent shall update DECS in accordance with Section IX as soon as possible but **within 24 hours of completing the interview.**
- d) If a disability is indicated (other than severe mental disorder) and the reasonable accommodation is not available, the Parole Agent shall contact the BPH ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 and BPT Form 1073 to the BPH FAD-MDO Unit for scheduling of the Placement Hearing. The Parole Agent shall note the unavailability of an accommodation on the form.
- e) Upon receipt of the BPT Form 1430, the BPH FAD-MDO Unit shall review that form, DECS, and BPT Form 1073 and arrange reasonable accommodations as needed prior to scheduling a Placement Hearing. The BPH ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate at the hearing.

7. ANNUAL REVIEWS

- a) One year after admission to the State Hospital, and annually thereafter, the assigned Parole Agent shall review DECS and complete Section I of the BPT Form 1073 as indicated in Section VIII of this Remedial Plan and the instructions on the back page of the BPT Form 1073 in preparation for giving the inmate/parolee notice of the annual hearing.
- b) The Parole Agent shall meet with the inmate/parolee, review the BPT Form 1073 and complete Sections II.
- c) The Parole Agent shall serve the inmate/parolee with a BPT Form 1460, Notice of Right to Annual Review Hearing, and a BPT Form 1460(A), Notice of Right to Annual Review Hearing-Acknowledgment.
- d) The Parole Agent shall complete Section III of the BPT Form 1073. The Parole Agent shall update DECS in accordance with Section IX as soon as possible but within 24 hours of completing the interview. If a disability (other than severe mental disorder) and the reasonable accommodation is not available, the Parole

Agent shall contact the BPH ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 to the BPH FAD- MDO Unit for scheduling of an Annual Review Hearing. The Parole Agent shall note the unavailability of an accommodation on the form. This process applies to all parolees with MDO special conditions of parole being treated on an inpatient or outpatient basis.

- e) Upon receipt of the BPT Form 1430, the BPH FAD- MDO Unit shall check that form, DECS, and BPT Form 1073 and arrange reasonable accommodations as needed prior to scheduling an Annual Review Hearing. The BPH ADA Coordinator will be responsible for ensuring the accommodation is provided to the inmate at the hearing.
- f) The BPH Deputy Commissioner is responsible for reviewing DECS and the BPT Form 1073 to ensure effective communication with the inmate during the Placement Hearing and all other MDO hearings where a BPH Deputy Commissioner acts as a decision-maker or communicates with an MDO inmate/parolee. In addition, the BPH Deputy Commissioner chairing the hearing shall document any assistance provided to achieve effective communication, whether effective communication was achieved, and how the determination was made on the hearing results provided to the inmate. If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.
- g) After the hearing, the BPH Deputy Commissioner will update DECS as outlined in Section IX as soon as possible but no later than 24 hours of the hearing.

8. ATTORNEY ASSISTANCE

- a) The BPH FAD-MDO Unit is responsible for assigning attorney representation for the Certification, Placement and Annual Review hearings) Attorneys assigned to inmates with disabilities shall be required to complete ADA training.
- b) CDCR will provide DECS access to the attorneys via the internet which will allow a review of inmate disability and effective communication information and prior to the meeting with their client. The attorney will also have the ability to update the DEC by documenting accommodations provided.

9. PROCESS WHEN INMATE DOES NOT SIGN NOTICE AND CONDITIONS OF PAROLE

When an MDO is located at a prison and refuses to sign his/her special condition for MDO treatment, institution staff, as identified below, shall do the following:

- a) The institution MDO Coordinator shall immediately write the RVR if the inmate refuses to sign the CDCR Form 1515. The C&PR/RC CC-III or designee shall notify the BPH MDO Coordinator and DCHCS MDO Unit of the inmate's refusal upon receipt of the CDC Form 804, Notice of Pending CDC Form 115.
- b) The C&PR/RC CC-III shall complete and fax a BPT Form 1135 to the BPH FAD-MDO Unit requesting placement of a parole hold pursuant to PC Section 3060.5. The C&PR/RC CC-III will notify the BPH SPU to schedule a Parole Revocation Hearing in accordance with current revocation extension procedures.
- c) Within two weeks of notification of the inmate's refusal to sign MDO special condition, the BPH SPU Scheduler shall review DECS and appoint an attorney to consult with the inmate.
- d) The BPH SPU Scheduler shall advise the appointed attorney of any accommodations needed. The attorney is responsible for reviewing DECS and assisting the inmate in deciding whether to accept or refuse the special condition for MDO treatment. The attorney will enter any updated ADA information from the attorney consultation into DECS (Parole Proceeding Accommodation Provided Form).
- e) The institution shall be responsible for arranging gate clearance and escorts consistent with current institution procedures.
- f) The BPH MDO Coordinator shall confirm, in writing, the attorney's appointment to the C&PR/RC CC-III and provide the attorney with a copy of the BPH certification package, including the clinical evaluations.
- g) It is the responsibility of the attorney to review DECS before he/she consults with the inmate and present the following information:
 - 1) An explanation of the MDO special condition.
 - 2) The nature of treatment provided under the MDO special condition.
 - 3) The State Hospital environment.
 - 4) The rights of State Hospital patients.
 - 5) The ability of treatment to reduce future offenses.

- 6) The consequences of refusing to sign MDO special conditions are:
 - i) Revocation and remaining in prison.
 - ii) Extension of the parole term.
 - iii) Reevaluation, which may still result in the MDO special conditions at the end of the revocation period.
- h) If after the attorney consultation the inmate decides to sign the special condition for MDO treatment:
 - 1) The attorney shall deliver the packet to the C&PR/RC CC-III.
 - 2) The C&PR/RC CC-III shall prepare a BPT Form 1135, recommending that the BPH's action to schedule a Revocation Hearing be rescinded.
 - 3) The C&PR/RC CC-III shall fax the BPT Form 1135 to the FAD-MDO Unit for review and approval.
 - 4) Upon receipt of the approved BPT Form 1135, the C&PR/RC CC-III shall arrange the transfer of the inmate to the appropriate State Hospital.
 - 5) Upon admission to the State Hospital, the processes outlined in Section D.4 above shall be followed.
- i) If after attorney consultation the inmate continues to refuse to sign his/her special condition for MDO treatment:
 - 1) The attorney shall deliver the packet to the C&PR/RC CC-III.
 - 2) The C&PR/RC CC-III shall notify the BPH MDO Coordinator.
 - 3) The BPH MDO Coordinator will arrange for a clinician (licensed psychologist or psychiatrist) to assess whether the inmate's severe mental disorder has impaired his/her ability to make a knowing and intelligent decision to accept or refuse the MDO special condition of parole. The clinician shall review DECS or be provided with a DECS DAI Summary page printout (76556) by the FAD-MDO Unit staff. Any accommodation provided by the clinician will be entered into DECS by the BPH FAD-MDO Unit staff.
 - 4) The clinician will prepare and forward a written report to the BPH MDO Coordinator. The BPH MDO Coordinator will send a copy of the report to the C&PR/RC CC-III for filing in the BPH section of the C-File.
- j) If the clinical evaluation determines that the inmate's severe mental disorder has impaired his/her ability to make a knowing and intelligent decision, it shall be the responsibility of staff to provide the following services:

- 1) The BPH MDO Coordinator will prepare a BPT Form 1135 recommending that BPH's action to schedule a Revocation Hearing be rescinded.
 - 2) The BPH MDO Coordinator will submit the BPT Form 1135 to FAD-MDO Unit for review and approval.
 - 3) The BPH MDO Coordinator will arrange for a clinician (licensed psychologist or psychiatrist) to assess whether the inmate's severe mental disorder has impaired his/her ability to make a knowing and intelligent decision to accept or refuse the MDO special condition of parole. The clinician shall review DECS or be provided with a DECS DAI Summary page printout (76556) by the FAD-MDO Unit staff. Any accommodation provided by the clinician will be entered into DECS by the BPH FAD-MDO Unit staff.
 - 4) Once a decision is made, a copy of the BPT Form 1135 shall be faxed and mailed by the staff at FAD-MDO Unit to the C&PR/RC CC-III.
 - 5) The C&PR/RC CC-III shall arrange for transfer of the inmate to the appropriate State Hospital.
- k) If the clinical evaluation determines the inmate has the ability to make a knowing and intelligent decision, the revocation process will proceed in accordance with Parole Revocation Hearing processing as outlined in Section X.

C. REVOCATION EXTENSION PROCEDURES: DAI AND BPH

These procedures are to be followed in parole revocation cases arising from acts of reportable misconduct committed by inmates/parolees in Return-to-Custody status in a **CDCR Institution**.

1. REVOCATION EXTENSIONS DEFINED:

- a) An inmate/parolee who commits an act of reportable misconduct, while in revoked status, is subject to Revocation Extension proceedings.
- b) An inmate/parolee subject to the Revocation Extension process is defined as any Parole Violator-Return to Custody (PVRTC) and/or Parole Violator-with New Term (PVWNT), who has not reached his/her Revocation Release Date².
- c) An inmate/parolee is deemed to be in revoked status once he/she either unconditionally or optionally waives his/her right to a hearing with a return to custody assessed or is ordered returned to custody at a revocation hearing.
- d) If the discovery date is beyond the revocation release date and the inmate/parolee has not been release (i.e. a hold from another agency) the misconduct is a

² Revocation Release Date includes RRDs, PRRDs and MRRDs.

revocation offense,. DAI shall refer all instances of misconduct (Division A, B, C, D, E, F) to DAPO.

- e) Acts of Reportable Misconduct subject to the Revocation Extension process are defined as:
- 1) The misconduct consists of an act initially identified as a Division A, B or C offense pursuant to CCR Section 3323.
 - 2) The misconduct consists of an act that was initially identified as other than a Division A, B, or C offense and is subsequently classified as either a Division A, B, C offense.
 - 3) The misconduct consists of a violation of a special condition of parole prohibiting contact with a specific person, or class of persons, such as minors. This does not include the general class of individuals specified as “gang members.”
 - 4) The inmate/parolee refuses to sign his/her general and/or special conditions of parole, or³,
 - 5) The inmate/parolee refuses to sign any form required by the Department of Justice explaining his/her responsibility to register per Penal Code Section 290⁴.

2. RESPONSIBILITY:

- a) Institutional staff will handle acts of reportable misconduct committed by inmates/parolees in Return-to-Custody status in an Institution.
- b) DAPO will handle acts of reportable misconduct committed by inmates/parolees in Return-to Custody status in a non-CDCR location.
- c) When an act of reportable misconduct occurs at a non-CDCR location and the inmate/parolee is transferred to a CDCR Institution with a Decentralized Revocation Unit (DRU) prior to the completion of the Revocation Extension process, the case will continue to be processed by BPH field staff (e.g. DRU staff).
- d) When an act of reportable misconduct occurs at a non-CDCR location and the inmate/parolee is transferred to a CDCR Institution which does not have a DRU prior to the completion of the Revocation Extension process, the case will be processed by DAI Revocation Extension desk staff per DAPO Revocation Extension policies and procedures (see DAPO Revocation Extension policy and procedure).

³ The BPH processes these parole revocation cases using the parole revocation extension process established herein. Note: this offense not only applies to PVRTC and PVWNT, but also to new commitments.

⁴ Same as footnote #2.

- e) If the inmate/parolee is transferred to another CDCR institution prior to completion of the Notice of Rights/Charges, the C&PR shall contact the C&PR at the receiving institution to coordinate the completion of the Notice of Rights/Charges.
 - f) If the inmate is transferred to a non-CDCR location prior to completion of the Notice of Rights/Charges, the C&PR shall contact the appropriate DAPO Supervising Notice Agent via the DAPO Regional Headquarters to coordinate the completion of Notice of Rights/Charges and return of the documents.
3. **TIMELINE SUMMARY:** See flow chart for details. Good cause delay is any circumstance causing a delay not within the control of the State.
4. **ACTS OF REPORTABLE IN-CUSTODY MISCONDUCT PENDING IMMINENT RELEASE:**
- a) ***Time line:*** To retain jurisdiction, the BPH must act prior to midnight of the scheduled revocation release date in order to retain the offender. For PVRTC and/or PVWNT inmates/parolees who commit an act of reportable misconduct immediately prior to release when the BPH is closed (holidays, weekends, evenings, etc), the Institution will initiate, and when appropriate, the BPH will take an emergency hold action to retain the inmate/parolee.
 - b) ***Definition:*** When the PVRTC and/or PVWNT commits a reportable act of misconduct and is pending imminent release, the Institution contacts Warrants to request a hold, and the BPH takes the appropriate action on the requested hold. The next business day, the Institution faxes a Miscellaneous Decision report (BPT 1135) to the BPH Special Processing Unit to document the afterhours decision.
 - c) ***Procedure:***

DAI Process: For any PVRTC and/or PVWNT inmates/parolees where an act of reportable misconduct occurs immediately prior to the revocation release date, and during such time as the BPH is closed (holidays, weekends, evenings, etc.), the Supervisor of the area/facility where the misconduct occurred shall do the following:

- 1) Contact the Watch Commander regarding the reportable misconduct and impending Rules Violation Report (RVR).

Upon notification from the Watch Commander, the C&PR will do the following:

- 1) Contact Warrants Unit telephonically at (916) 324-2981 and request that the BPH Administrative Officer of the day place a hold on the inmate/parolee pending the revocation extension process, and;

- 2) KL Inform the Classification & Parole Representative / Reception Center Correctional Counselor III (C&PR) the next business day of the afterhours action.

Upon notification from the Watch Commander, the C&PR will do the following:

- 1) Complete a BPT 1135 to document the afterhours decision and fax a copy to the BPH, Special Processing Unit,(916) 324-6966,
 - 2) Ensure that Case Records contacts the Special Processing Unit telephonically at (916) 324-1941 to confirm receipt of the fax,
 - 3) Obtain the BPT 1135 documenting the BPH action from BPH Special Processing Unit, and
 - 4) Provide the completed BPT 1135 to Case Records for processing.
- b) **BPH Process:** Upon notification from the Watch Commander, the BPH Associate Chief Deputy Commissioner, Administrative Officer of the Day will do the following:
- 1) Evaluate the verbal information provided and place a hold, if appropriate. The BPH may extend the hold beyond the release date, but no later than 35 calendar days from the discovery date. For example: If the discovery date is 2 calendar days before the release date, then the hold will be placed for up to 33 calendars days after the release date.

5. DISCOVERY DATE

The discovery date is the date the Institution's staff receives the information and/or evidence amounting to reportable misconduct. All Institutional time lines are calculated from one (1) calendar day after the discovery date (discovery date is day zero).

6. CASE RECORDS RECEIPT OF RULES VIOLATION REPORT AND CDC 804

- a) ***Time line:*** The RVR⁵ along with a copy of the Notice of Pending CDC 115 (CDC 804) shall be submitted to Case Records no later than 1 business day from the discovery date.
- b) ***Definition:*** Case Records receives the RVR along with a copy of the CDC 804.
- c) ***Procedure:***
DAI Process: The reporting employee completes a RVR. Additionally, the CDC 804 is completed. The documents are forwarded to Case Records for processing.

⁵ If the completed (typed) RVR is not available then the "rough draft" can be utilized.

7. **CASE RECORDS PROCESS THE RULES VIOLATION REPORT AND CDC 804 AND THE C&PR REVIEWS FOR REFERRAL**

- a) **Time line:** Case Records will process the RVR and the CDC 804, and the C&PR completes the review for referral to BPH, no later than two (2) business days after the discovery date.
- b) **Definition:** To complete this step Case Records places the RVR and the CDC 804 in the Central File (C-File), and provides the file to the C&PR. The C&PR reviews the documents to determine if the in-custody misconduct meets the BPH referral criteria. When the inmate/parolee **is within 35 calendar days** of their revocation release date, Case Records also contacts the BPH Special Processing Unit regarding the impending release date.

c) **Procedure:**

DAI Process (Case Records): Upon receipt of the RVR and the CDC 804, the Case Records staff immediately:

- 1) Date stamps the front of the CDC 804 and RVR.
 - 2) Files the documents in the Disciplinary Section of the C-File.
 - 3) Confirms that the inmate/parolee is a PVRTC or a PVWNT who has not reached his/her revocation release date.
 - 4) Provides the C-file to the C&PR and a Parole Revocation Hearing Notice, the Witness Determination form (CDCR 1654), or designee for review.
 - 5) The Revocation Extension Desk staff will ensure that the correct CDC number and Name is recorded on all documents prior to faxing or mailing them to the Special Processing Unit at BPH.
- d) **DAI Process (C&PR):** The C&PR reviews the RVR and CDC 804 to determine if they meet the BPH referral criteria.
- 1) The misconduct consists of an act initially identified as a Division A, B or C offense pursuant to CCR Section 3323,
 - 2) The misconduct consists of an act that was initially identified as other than a Division A, B, or C offense and is subsequently classified as either a Division A, B, C offense,
 - 3) The misconduct consists of a violation of a special condition of parole prohibiting contact with a specific person, or class of persons, such as minors. This does not include the general class of individuals specified as "gang members."

- 4) The inmate/parolee refuses to sign his/her general and/or special conditions of parole⁶, or
- 5) The inmate/parolee refuses to sign any form required by the Department of Justice explaining his/her responsibility to register per Penal Code Section 290⁷.

8. C&PR REVIEWS FOR REFERRAL

- a) If the misconduct is referable, the C&PR will immediately:
 - 1) Indicate the qualifying reason for the referral (e.g. division of offense or mandatory referral) on the CDC 804.
 - 2) Complete Section II of the CDCR 1654 listing the witnesses the state will subpoena for the Revocation Extension Hearing.
 - 3) Hand-deliver the C-File and the CDCR 1654 to the Revocation Extension Desk staff for processing.
- b) If the misconduct is not referable, then the process ends and the case are closed.
- c) If the act of reportable misconduct occurs **within 35 calendar days** of the inmate/parolee's revocation release date, the C&PR shall:
 - 1) Complete a Report of In-Custody Misconduct (BPT 1135A) requesting the BPH retain the inmate/parolee in custody pending the revocation extension proceedings;
 - 2) Fax the BPT 1135A to the BPH Special Processing Unit (916) 324-6966, and;
 - 3) Contact the BPH telephonically at (916) 324-1941 to confirm receipt of the fax and advise them of the impending release date or unavailable status.

9. NOTICE OF RIGHTS/CHARGES

- a) ***Time line:*** The Institution will complete the Notice of Rights/Charges no later than three (3) business days after the discovery date.
- b) ***Definition:*** The institution accomplishes this step when the Revocation Extension Desk staff receives and prepares the documents for the Correctional Counselor to serve on the inmate/parolee. First, the Correctional Counselor conducts an ADA and effective communication review, documenting the result. The Correctional Counselor then meets with the inmate/parolee to provide the relevant documents, and to explain the revocation extension process to the

⁶ Same as footnote #2.

⁷ Same as footnote #2.

inmate/parolee including the nature of the charges alleged, and his/her rights. Finally, the Correctional Counselor completes the Notice of Rights/Charges documentation and returns the packet to Case Records.

c) ***Procedure:***

DAI Process (Case Records): Upon receipt of the C-file and completed CDCR 1654 from the C&PR, and/or designee, the Revocation Extension Desk staff:

- 1) Completes a BPT 1135A (including C&PR signature), if not already complete,
- 2) Prepares the Notice of Rights/Charges packet, with the inmate/parolee's Name and CDC number on each form, to include 3 copies of all non-NCR documents:
 - i the RVR,
 - ii the BPT 1135A-1 – Notice of Rights/Acknowledgement for Revocation Extension Proceedings,
 - iii a blank BPT 1100(b) – Request for Witnesses.

The Revocation Extension Desk staff shall contact the assigned Correctional Counselor and advise him/her that the inmate/parolee requires notification of his/her Rights/Charges for the revocation extension process. After advising the Correctional Counselor, the Revocation Extension Desk staff shall retain one (1) copy of the Notice of Rights/Charges documents at the desk and provide the Correctional Counselor with the original and a copy of the Notice documents. If the assigned Correctional Counselor is not available on this date, the Revocation Extension staff shall contact the Correctional Counselor Supervisor and advise him/her of the need to conduct a Notice of Rights/Charges.

d) ***DAI Process (Correctional Counselor):*** Upon receipt of the Notice of Rights/Charges documents (original and a copy), the Correctional Counselor shall, prior to the 3rd business day from the discovery date:

- 1) Review the Disability and Effective Communication (DEC) system.
- 2) Review the C-file.
- 3) Complete Section I of the BPT 1073.
- 4) Attach copies of any ADA source documents that are identified in Section I, BPT 1073.
- 5) If the inmate/parolee needs reasonable accommodation(s) the Correctional Counselor shall make the accommodation(s) available during the meeting with the inmate/parolee. When the Correctional Counselor does not have a

necessary accommodation, he/she shall contact the ADA Coordinator at the Institution for assistance. If the inmate/parolee requires a foreign language interpreter, the Correctional Counselor shall use only an independent contracted interpretation service provider.

- 6) After the ADA and effective communication review, the Correctional Counselor shall meet with the inmate/parolee to effectuate the service.
- 7) During the meeting, the Correctional Counselor shall complete Section II, BPT 1073, including obtaining the inmate/parolee's signature.
- 8) Next the Correctional Counselor shall advise the inmate/parolee of the charges indicated on the RVR and of his/her rights indicated on the BPT 1135A-1, and complete Section III, BPT 1073.
- 9) The Correctional Counselor will ask the inmate/parolee to read, complete the name and date sections, and sign the BPT 1135A-1. The Correctional Counselor will provide a copy of the Notice of Rights/Charges documents, the signed BPT 1135A-1, and a blank copy of the Request for Witnesses (BPT 1100(b)), with an explanation of the 1100b's use, to the inmate/parolee.

Upon completion of the Notice of Rights/Charges, the Correctional Counselor shall immediately return the original documents to the Revocation Extension Desk staff for processing. The Correctional Counselor will update the DEC system by transposing the paper BPT 1073 to the electronic BPT 1073. Note: The Correctional Counselor shall make the DEC entries as soon as possible but within 24 hours of completing the interview.

If the inmate/parolee is transferred to another CDCR institution prior to completion of the Notice of Rights/Charges, the C&PR shall contact the C&PR at the receiving institution to coordinate the completion of the Notice of Rights/Charges.

If the inmate is transferred to a non-CDCR location prior to completion of the Notice of Rights/Charges, the C&PR shall contact the appropriate DAPO Supervising Notice Agent via the DAPO Regional Headquarters to coordinate the completion of Notice of Rights/Charges and return of the documents.

10. REFERRAL TO THE BPH

- a) **Time line:** The referral to the BPH will be completed no later than seven (7) business days after the discovery date.
- b) **Definition:** The Institution completes this step when the Revocation Extension Desk staff provides the BPH with the Revocation Extension packet.
- c) **Procedure:**

DAI Process: Upon the receipt of the Notice of Rights/Charges documents, the Revocation Extension Desk staff provides the following documents to the BPH Special Processing Unit:

- 1) BPT 1135A, Report of In-custody Misconduct,
- 2) BPT 1135A-1, Notice of Rights and Acknowledgement of the Revocation Extension Proceedings,
- 3) BPT 1073, Notice and Request for Assistance at Parole Proceeding and any ADA source documents that are identified by the Correctional Counselor,
- 4) CDC 112, Chronological Inmate History,
- 5) CDC 115, Rules Violation Report,
- 6) CDC 115-MH, Rules Violation Reports: Mental Health Assessment Request. The Revocation Extension desk staff will check the C-File for this document for all inmates/parolees with an EOP, DMH, or MHCB classification, and for any CCCMS classification who's CDC 115 involved unusual or bizarre behavior. Additionally, when a CDC 115-MH is received by Case Records, a copy shall be faxed immediately to the BPH SPU for distribution to the panel attorney.
- 7) CDC 188, Legal Status Summary,
- 8) CDCR 1654, Parole Revocation Hearing Notice and Witness Determination, and
- 9) Any other related documents.

The Revocation Extension Desk staff faxes⁸ or overnight mails the following documents and other related documents to the Special Processing Unit at the BPH. The documents can be faxed to (916) 324-6966 or sent via overnight mail service to the attention of the Special Processing Unit: Tracking Desk, 1515 K Street, Ste 600, Sacramento, CA 95814.

Submitting incomplete packets can result in dismissal of charges due to violating *Valdivia* time frames and/or providing inadequate documentation. Institutions must make every effort to timely provide additional information, or to properly complete documentation, when requested by the Special Processing Unit to ensure the inmate/parolee is held accountable for the misconduct.

⁸ When providing information to the BPH Special Processing Unit faxing should always be the primary method of sending information. However, if the fax machine is not functional then overnight mail may be considered as an alternative method to provide the documents.

11. BPH SPECIAL PROCESSING UNIT RECEIVES PACKETS

- a) **Time line:** The BPH Special Processing Unit receives the Revocation Extension packet no later than nine (9) business days after the discovery date.
- b) **Definition:** The BPH completes this step when the BPH Special Processing Unit receives the revocation extension packet, reviews the documents for completeness and logs the case for tracking, conducts a review pursuant to ADA to assess ADA accommodations and effective communication needs, notifies the panel attorney office of the case, and provides a copy of the packet to the Deputy Commissioner.
- c) **Procedure:**
BPH Process: Upon receipt of the Revocation Extension DAI packet, the Special Processing unit reviews the packet for completeness by ensuring it contains all the required forms (see complete list under "Referral to BPH") and correct completion of all the forms.

If the packet is incomplete, the Special Processing Unit shall contact the DAI sender to request the missing documents. BPH will continue to process the packet after one business day, regardless if the requested documents are received, but failure to respond to the BPH may ultimately result in the BPH being forced to dismiss the case.

After reviewing the packet, the BPH Special Processing Unit will:

- 1) Determine and update the current location of inmate/parolee.
- 2) Check the DEC system and enter any anticipated accommodation(s), during the Attorney Consultation, PCH, and Revocation Extension Hearing.
- 3) Based on the inmate/parolee's custody location, the BPH will forward the revocation extension packet to the appropriate panel attorney satellite office.
- 4) Complete the informational portions of a BPT 1104, Revocation/Revocation Extension Return to Custody Assessment form, and attach it to the packet.
- 5) Forward packet to the Deputy Commissioner assigned to the Special Processing Unit to determine if a Return to Custody Assessment is appropriate.
- 6) Schedule a PCH **no later than thirteen (13) business days** after the discovery date.
- 7) Advise the attorney of the PCH date.
- 8) When the Inmate/Parolee is **within 35 calendar days** of the revocation release date, the DC, where appropriate, will take an action to hold the inmate/parolee pending the completion of the Revocation Extension

proceedings.. The BPH may extend the hold beyond the release date, but no later than 35 calendar days from the discovery date. For example: If the discovery date is 10 calendars days before the release date, then the hold will be placed for up to 25 calendar days after the release date.

9) Schedule a Deputy Commissioner for the PCH.

12. ATTORNEY ASSIGNMENT (ATTORNEY RECEIVES PACKET)

- a) **Time line:** The Attorney Assignment will be completed no later than nine (9) business days after the discovery date.
- b) **Definition:** The BPH Special Processing Unit completes this step by providing the panel attorney a copy of the Revocation Extension packet, and by providing a copy of the relevant documents to the Institution Revocation Extension Desk staff.
- c) **Procedure:**
BPH Process: Upon receiving the Revocation Extension packet, the Special Processing Unit staff will:

For Panel Attorney:

- 1) Provide the appropriate panel attorney office with a copy of the revocation extension.
- 2) Advise the panel attorney to inform the assigned attorney to contact the Special Processing Unit to schedule a telephonic PCH prior to the PCH no later than date.
- 3) Inform the panel attorney that failure of counsel to contact the Special Processing Unit.

For Institutions Revocation Extension Desk (for cases originating from the Institution):

- 1) Provide the Revocation Extension Desk with a copy of the BPT 1104 (including the no later than dates).
- 2) Provide the Revocation Extension Desk with the name of the attorney and the scheduled PCH date.

13. REVOCATION EXTENSION ASSESSMENT

- a) **Time line:** The Revocation Extension Assessment (REA) will be completed no later than ten (10) business days after the discovery date.

- b) **Definition:** The BPH completes this step by completing and documenting an ADA and effective communication review to determine if the inmate/parolee needs accommodation(s), and assesses the case factors to determine an appropriate proposed disposition.
- c) **Procedure:**
BPH Process: The Deputy Commissioner assigned to the Special Processing Unit shall first establish if the BPH has jurisdiction. There is no jurisdiction if the revocation release date expired. The Deputy Commissioner will review the DEC system and document the ADA review on the BPT 1104 – Return to Custody/Revocation Extension Form. If jurisdiction is established then the Deputy Commissioner assesses the case factors to determine the appropriate proposed disposition and completes the documents as follows:
- 1) If the Deputy Commissioner determines that a revocation extension is unwarranted, the Deputy Commissioner will note BPHs decision not to proceed by re-affirming the release date in the decision section of the BPT 1135A - Report of In-Custody Misconduct and will not complete the BPT 1104 – Return to Custody/Revocation Extension Form.
 - 2) If the Deputy Commissioner determines that a revocation extension is warranted, the Deputy Commissioner shall complete the BPT 1135A - Report of In-Custody Misconduct and the BPT 1104 – Return to Custody/Revocation Extension Form using the guidelines listed in BPH Regulations, CCR, Title 15, Division 2, Section 2742.
 - 3) If the Deputy Commissioner determines that a revocation extension is warranted and the inmate/parolee is **within 35 calendar days** from his/her revocation release date, the Deputy Commissioner shall retain the inmate/parolee in custody for a period not to exceed 35 calendar days the discovery date. Prior to taking the action to maintain the hold pending the revocation extension hearing, the BPH Deputy Commissioner shall consider the timeliness of the submission of the misconduct report as one factor in maintaining the hold. The Deputy Commissioner shall take this action in the decision section of the BPT 1135A - Report of In-Custody Misconduct. The Deputy Commissioner will complete the BPT 1104 – Return to Custody/Revocation Extension Form using the attached assessment guidelines.

If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

After the Deputy Commissioner completes the Report of In-Custody Misconduct and Assessment Offer, the Deputy Commissioner returns the documents to the Special Processing Unit staff member to process and provide the REA to panel attorney and the institution. Where the BPH identifies ADA accommodation(s), or effective communication needs, to be provided at the Attorney Consultation, PCH, and

Revocation Extension Hearing, the BPH staff will communicate these accommodation(s) to the DAI Revocation Extension Desk on the fax cover in bold type.

d) **DAI Process (Revocation Extension Desk):**

- 1) When the BPH's decision reaffirms the Revocation Release date, Case Records shall provide a copy to the inmate/parolee through the institutional mail.
- 2) When the case is closed, ensure the Revocation Extension paperwork is given to the Correctional Case Records Analyst for posting and release date calculation as required through established procedures.

14. ATTORNEY CONSULTATION

a) ***Time line:*** The attorney will complete a consultation with the inmate/parolee no later than eleven (11) business days after the discovery date.

b) ***Definition:*** Panel attorney completes this step when the attorney calls the institution to initiate the ducat process, conducts a face-to-face meeting with the inmate/parolee, returns the appropriate documents to Case Records, and enters any ADA accommodation and/or effective communication methods used into the DEC system.

c) ***Procedure:***

Panel Attorney Process:

- 1) For institutional cases, the attorney contacts the C&PR, or designee at least 24 hours prior to the "Attorney Consultation" no later than date via telephone, and schedules a visit with the inmate/parolee, advising the C&PR of any ADA accommodations and/or effective communication methods that may be needed to conduct the consultation. Prior to the scheduled visit, the Revocation Extension Desk staff will ducat the inmate/parolee for the visit, and ensure the appropriate clearances are obtained for the attorney's entrance into the institution.
- 2) For DAPO cases transferred to an institution (prior to the completion of the Revocation Extension process) where there is a DRU, the attorney will contact the DRU staff to schedule the visit. Prior to the scheduled visit, the DRU staff will ducat the inmate/parolee for the visit and ensure appropriate clearances are obtained for the attorney's entrance into the institution.
- 3) The attorney shall meet with the inmate/parolee at the scheduled time and date to discuss the REA, explain the hearing rights, and assist the inmate/parolee in making a determination as to how to proceed with the case. In addition, the attorney will assess whether or not the inmate/parolee needs further accommodation(s) to proceed. During the consultation, the attorney shall use

effective communication to explain the REA and that parolees are not required to accept or reject a RTC until the PCH. Attorneys must allow 72 hours for their *Armstrong* class member clients to make a decision about the REA.

- 4) If the inmate/parolee and attorney decide to accept the REA, the attorney and inmate/parolee will complete the BPT 1104-B, and leave it with the Revocation Extension Desk. Additionally, will enter into the DEC system on the BPH Accommodation Chrono any ADA accommodation and/or effective communication methods provided to the inmate/parolee at the attorney consultation. Any DEC entry shall be made as soon as possible but within 24 hours of completing the interview.
 - 5) In the rare event that the parolee chooses to accept the REA without a PCH, the assigned attorney shall consult with the DC to ensure the parolee's waiver is knowing, voluntary, and intelligent. The attorney should be particularly aware of *Armstrong* class members with disabilities affecting their ability to understand (i.e. developmental, hearing, learning) when counseling their clients regarding attending the PCH.
- d) ***DAI Process:*** The Revocation Extension Desk staff will do the following if the REA is accepted at the REA attorney consultation:
- 1) Review the documents for completeness,
 - 2) fax a copy of the completed documents to the BPH Special Processing Unit at (916) 324-6966,
 - 3) cancel any tentatively scheduled hearing on the case, and
 - 4) provide the Revocation Extension paperwork to the Correctional Case Records Analyst for posting and release date calculation as required through established procedures.

15. EXPEDITED PROBABLE CAUSE HEARING WITH OFFER OF PROOF

- a) ***Time line:*** The BPH will conduct an expedited probable cause hearing with offer of proof no later than twelve (12) business days after the discovery date. The expedited PCH is only applicable to inmates/parolees whose acts of in-custody misconduct are **within 35 calendar days** of their revocation release date.
- b) ***Definition:*** The BPH accomplishes this step only after the attorney provides a written request for an expedited PCH with an offer of proof to justify the request. The BPH reviews the offer of proof and, if appropriate, schedules and conducts the hearing.
- c) ***Procedure:***

Panel Attorney Process: The attorney requests an expedited probable cause hearing, if the inmate/parolee's act(s) of in-custody misconduct are **within 35 calendar days** of his/her revocation release date, and there is substantial evidence that the inmate/parolee is not culpable of the alleged misconduct. The attorney makes a written request for the expedited hearing to the DAI Revocation Extension desk staff, or faxes the request directly to Special Processing Unit at (916) 324-6966. If the attorney faxes the offer of proof directly to the Special Processing Unit then the original must be delivered to the DAI Revocation Extension desk also, the attorney should note that the information has been faxed to the Special Processing Unit. The attorney substantiates the request with an offer of proof.

- d) **DAI Process:** When an attorney requests an expedited PCH with an offer of proof, the Revocation Extension Desk staff will:
- 1) make a copy of the request and retain it in the revocation extension packet, and
 - 2) fax the request with the offer of proof to the BPH Special Processing Unit at (916) 324-6966.
- e) **BPH Process:** Upon request of an expedited PCH, the BPH will:
- 1) review the request and the offer of proof.
 - 2) Determine whether the request is appropriate, and advise the attorney and the DAI Revocation Extension desk staff of the decision.
 - 3) If **approved**, the BPH will schedule the expedited probable cause hearing and advise the attorney and the DAI Revocation Extension desk staff of the date.

16. PROBABLE CAUSE HEARING

- a) **Time line:** The PCH will be completed no later than thirteen (13) business days after the discovery date.
- b) **Definition:** The BPH accomplishes this step by conducting a hearing that includes an ADA and effective communication review, including providing accommodations if necessary, making a probable cause determination based on the evidence in the packet and the evidence presented by the parolee and his attorney; and, where the DC makes a probable cause finding, the DC will offer a negotiated disposition based on the case factors. The DC will document the results of the PCH and the Special Processing Unit will forward the documentation to Case Records.
- c) **Procedure:**
DAI Process: Revocation Extension Desk staff will reserve a hearing room on the appropriate date. The Revocation Extension Desk staff will inform the

C&PR, or designee, of required ADA accommodations by using the BPT 1073. The C&PR, or designee, will make the accommodation(s) available. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the C&PR, or designee, will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires the use of a sign language interpreter, the C&PR will coordinate the BPH ADACU. The BPH ADACU staff will notify the Institution's C&PR /Revocation Ext. Desk at least two days prior to the hearing, to allow the Institution to prepare gate clearances. The Revocation Extension Desk will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation were made.

- d) **Panel Attorney Process:** The attorney shall meet with the inmate/parolee at the scheduled time and date and contact the Deputy Commissioner at the Special Processing Unit for the PCH.
- e) **BPH Process:** The Deputy Commissioner shall be available to conduct a PCH, in person, or by telephone with the attorney and inmate/parolee present.

At the PCH, the Deputy Commissioner will:

- 1) Conduct an ADA review prior to conducting the PCH. This includes reviewing the DEC system, BPT 1073, and interaction with the parolee. The DC will provide the inmate/parolee with the appropriate accommodation(s). If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.
- 2) The REA remains open for 72 hours for *Armstrong* class members from the attorney consult.
- 3) Determine if the BPH has jurisdiction based on the revocation release dates, and controlling discharge date.
- 4) Determine if there is sufficient evidence to conclude that a reasonable person would have a strong suspicion that the inmate/parolee committed the alleged misconduct so as to constitute probable cause.
- 5) In the rare event that the parolee chooses to accept the REA without a PCH, the DC shall consult with the assigned attorney to ensure the parolee's waiver is knowing, voluntary, and intelligent. The DC should be particularly aware of *Armstrong* class members with disabilities affecting their ability to understand (i.e. developmental, hearing, learning) when accepting waivers.

- 6) Determine if the conduct warrants extended incarceration based on the case factors, and if so, will offer a negotiated disposition to resolve the case.
- 7) Provide the attorney and inmate/parolee with an opportunity to present evidence to dispute the charges and/or mitigate the disposition prior to making a probable cause determination, and prior to making the offer to resolve the case. Such evidence shall be presented through documentary evidence or the charged inmate/parolee's testimony, either or both of which may include hearsay testimony.
- 8) Document his/her decision on the appropriate form, including the reason for the determination including the evidence relied on.
- 9) Provide the inmate/parolee with a summary of the results including a copy of the BPT 1104-B(provided by the attorney).
- 10) Enter into the DEC system the accommodations, if any, provided. The Deputy Commissioner shall make the DEC entries as soon as possible but within 24 hours of completing the hearing.

If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

f) **“ACCEPT” PROCESS:**

If the inmate/parolee, after consulting with counsel decides to accept the negotiated disposition the attorney will provide all documents, including a BPT 1104 signed by the inmate/parolee (BPT 1104, Summary of Revocation Decision: Return to Custody Assessment and the BPT 1104-B, Parolee-Attorney Decision form) to the Revocation Extension Desk.

The Revocation Extension Desk staff will:

- 1) Review the documents for completeness,
- 2) Fax a copy of the completed documents to the BPH Special Processing Unit at (916) 324-6966, and
- 3) Provide the Revocation Extension paperwork to the Correctional Case Records Analyst for posting and release date calculation as required through established procedures.

g) **“REJECT PROCESS:**

If the inmate/parolee rejects the offer at the PCH, the attorney and Deputy Commissioner shall do the following:

- 1) The inmate/parolee will sign the BPT 1104 and the attorney will fax it to the Special Processing Unit.

- 2) The attorney will assist the inmate/parolee's completion of the Request for Witnesses form (BPH 1100(b) and present it to the DC for approval of requested witnesses.
- 3) The Deputy Commissioner will allow counsel to justify the request for witnesses, and either approve or disapprove each witness providing written justification for each decision in the DC report (refer to BPH Source document #3).
- 4) will provide the signed BPH 1104-B and BPH 1100(b) to the Revocation Extension or DRU staff for faxing to the Special Processing Unit.
- 5) The Deputy Commissioner will determine the hearing location.

After the appropriate documents are completed, the Special Processing Unit will:

- 1) Schedule a Revocation Extension hearing **no later than 35 calendar days** after discovery date. If the timeline expires during a weekend or on a holiday, this step will occur no later than the next business day after the weekend or holiday.
- 2) Complete the CDCR 1654 and advise the Revocation Extension Desk staff and panel attorney of the witnesses.
- 3) Fax a copy of the completed CDCR 1654 to the Revocation Extension Desk.
- 4) Subpoena all State witnesses (Note: the Institution is responsible for notifying employee witnesses that do not require a subpoena).
- 5) Advise panel attorney of the date of the Revocation Extension Hearing.
- 6) Schedule a Deputy Commissioner to conduct the Revocation Extension Hearing.

After the appropriate documents are completed, the Panel Attorney will:

- Subpoena all of the parolee's approved witness.

17. REVOCATION EXTENSION HEARING

- a) **Time line:** The Revocation Hearing will occur no later than thirty five (35) calendar days after the discovery date. If the timeline expires during a weekend or on a holiday, this step will occur no later than the next business day after the weekend or holiday.
- b) **Definition:** The BPH and the Institution accomplishes this step through completion of a Revocation Extension hearing where the DC completes an ADA

and effective communication review, and provides the appropriate accommodation(s), and then conducts an evidentiary hearing to determine if there is good cause to sustain the alleged misconduct. The DC documents the decision and the completed documents are sent to Case Records.

c) ***Procedure:***

DAI Process: The Revocation Extension Desk staff reserves a hearing room on the appropriate date and ensures that the proper gate clearances are obtained for witnesses. The Revocation Desk informs the C&PR of required accommodations using the BPT 1073. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the C&PR, or designee, will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires the use of a sign language interpreter, the C&PR will coordinate the BPH ADACU. The BPH ADACU staff will notify the Institution's C&PR /Revocation Ext. Desk at least two days prior to the hearing, to allow the Institution to prepare gate clearances. The Revocation Extension Desk will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation were made.

The Institution will notify state witnesses located at the institution of the date and time of the hearing, and will process all witnesses into the hearings. The Revocation Extension Desk staff will direct the inmate/parolee for the Revocation Extension Hearing. Additionally, the Revocation Extension staff will ensure that the Revocation Extension packet will be available in the hearing room on the date of the Revocation Extension hearing. If the DC determines that the C-File is necessary in order to conduct the hearing, he/she shall make a request to the Revocation Extension desk staff that, in turn, will provide the C-file. Custody staff will provide security and escorts for the hearings.

d) ***BPH Process:*** The BPH will schedule a Deputy Commissioner to conduct the hearing. At the hearing, the Deputy Commissioner will:

- 1) Tape record the Revocation Extension Hearing. It is the Deputy Commissioner's responsibility to ensure that they have the proper tape recording equipment, including a blank cassette tape, available at the hearing.
- 2) Conduct an ADA review prior to conducting the Revocation Hearing. This includes reviewing the DEC system, BPT 1073, and interaction with parolee. The DC will provide any required ADA and/or effective communication accommodations during the hearing. If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.

- 3) The Deputy Commissioner shall establish the BPH's jurisdiction based on the RRD and the CDD.
- 4) Determine, based on the evidence presented by the State and by the parolee, if a preponderance of the evidence exists to substantiate the alleged misconduct.
- 5) Prior to making a good cause determination, provide an opportunity for the inmate/parolee to present evidence through documents, witnesses, and the inmate/parolee's own testimony, all of which may include hearsay.
- 6) Determine, when good cause is found, if the conduct warrants an extended incarceration and, if so, the length of the extended incarceration.
- 7) Document the decision on the BPT 1103-REV by indicating the evidence relied on to support the finding, and if extending the incarceration, the reasons relied on to extend.
- 8) Provide the inmate/parolee with a copy of the summary of the hearing.
- 9) Enter into the DEC system the accommodations, if any, provided. The Deputy Commissioner shall make the DEC entries as soon as possible but within 24 hours of completing the hearing.

If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

e) **Post Hearing Processing**

For Institutions Revocation Extension Desk (for cases originating from the Institution):

Upon completion of the Revocation Extension hearings, the Deputy Commissioner will provide the original documents from the hearing to the CDCR Revocation Extension Desk, including the recorded tape(s). The Revocation Desk staff will fax a copy of the documents to the BPH at (916) 324-6966 and will process the original documents, including audio tapes, consistent with current procedure.

f) **Tracking**

- 1) **DAI Process:** Throughout the Revocation Extension process, for reportable misconduct originating at the Institution, the Revocation Extension desk staff will track the handling of the documents, and the revocation extension process, in the designated tracking system.

If the inmate is transferred to CDCR institution prior to the completion of the case, the C&PR at the original Institution shall contact the C&PR at the receiving Institution to advise of the pending revocation extension action. The

originating Institution shall continue to be responsible for tracking the case and for providing information to HQ.

Upon completion of the Revocation Extension process, a report should be generated from the designated tracking system and sent to designated *Valdivia* representative at Headquarters.

- 2) **BPH Process:** The tracking desk will electronically track the receipt and handling of all revocation extension referrals by entering the Inmate's/Parolee's name, number, date received, date of the Notice of Rights/Charges, and, the PCH and Hearing no later than dates.

18. REVOCATION EXTENSION HEARING GUIDELINES

- a) **Multiple Misconduct Charges.** Multiple misconduct charges shall be assessed consecutively to each other, and shall not exceed 12 months (time served) for all misconduct during one parole revocation period, whether submitted at the same time or separately.
- b) **Disciplinary Rule Violation Schedule.** When a Deputy Commissioner makes a finding that a prisoner has committed an act of misconduct which is ineligible for work time credits pursuant to PC 3057, or if the inmate's/parolee's active commitment case(s) are ineligible for work time credits, then the revocation extension period is also ineligible.
- c) **Assessments.** If probable cause is established on the revocation extension charge(s), the Deputy Commissioner may assess an extension of the revocation period based on the schedule listed in BPH Regulations, CCR, Title 15, Division 2, Section 2742.

XI. TRANSITION TO DIVISION OF ADULT PAROLE OPERATIONS

The transition from the institution to DAPO involves the use of the following forms: CDC Form 611 (Rev 5/01) or later version, Release Program Study (RPS), CDC Form 128 B, ADA Documents for Transition to Parole and the CDCR Form 1515, Notice and Conditions of Parole. It is through the use of these documents, along with the review of DECS as outlined in Section IX, that institution staff will relay pertinent information to parole region staff regarding the identification of potential disabilities and the possible special needs the inmate/parolee may have due to those disabilities. Parole region staff shall retain the documentation provided in the field file for use in their contacts with the parolee.

The following outlines the requirements for institution staff in ensuring an efficient and effective transition process. Case Records shall notify the CC-I that the CDC Form 611 and CDCR Form 1515 The CDC Forms 611 and CDCR 1515 shall be completed by the CC-I at the same time.

A. CDC FORM 611 – RELEASE PROGRAM STUDY

1. The CDC Form 611 (Rev 5/01) was issued on May 21, 2001. Among the changes to the CDC Form 611 (Rev 5/01) process was the requirement to identify and attach source documents that verify disabilities. In completing the CDC Form 611 (Rev 5/01) or later version, the CC-I shall conduct a thorough review of the C-File for documentation, which may identify a disability, check the appropriate box on the form, and complete the remainder of the CDC Form 611 (Rev 5/01) or later version, consistent with current directives. The CCI shall also review DECS.
2. Records staff shall review the CDC Form 611 (Rev 5/01) or later version, attach the RPS packet including the CDC Form 128 B reading score is 4.0 or lower, and provide it to the C&PR/RC CC-III. The C&PR/RC CC-III shall review the CDC Form 611 and RPS packet and ensure the verification documents are attached prior to his/her approval. Upon approval, the Records staff will send it to the appropriate parole region consistent with current procedures.

B. CDC FORM 128-B-ADA DOCUMENTATION FOR TRANSITION TO PAROLE

1. The CDC Form 128-B, ADA Documentation for Transition to Parole, is used for inmates who are released on parole and subsequently returned on a parole violation as a Parole Violator Returned to Custody (PVRTC) whose disability status has changed. It is also used when the CDC Form 611 has been completed and there is a change in the inmate's disability status.
2. The CC I shall complete the 128-B in the following instances:
 - a) Any new commitments or Parole Violators with a New Term whose disability changed after the CDC Form 611 has been completed and sent to DAPO.
 - b) Any new commitments or Parole Violators with a New Term whose disability changed after the CDC Form 611 has been completed, but prior to being sent to DAPO.
 - c) For PVRTC whose disability status has changed while in custody.
3. Some examples of a change in disability status include inmates being removed from the Mental Health Services Delivery System, or any other disability program, level of care changes, or changes in developmental or physical disabilities status. Upon notification via verification documents such as the CDC Form 128-C, Mental Health Placement Chrono, and the CDC Form 128-C2, Recommendation for Adaptive Support, the CC-I shall review the C-File and DECS to determine if there is a change in the inmate's disability status requiring him/her to initiate the CDC Form 128-B.
4. The CC I shall also review the C-File to determine if a CDC Form 128-B is required based on a change in disability status through routine reviews such as the initial and program reviews.

5. If verification documents are generated which result in a change in the inmate's disability status (e.g. CCCMS to EOP, change on CDC Form 1845, etc.) after the CC-I has submitted the CDC Form 611 (Rev 5/01) or later version to the C&PR/RC CC-III, or the inmate is a PVRTC, the CC-I shall generate a CDC 128-B, ADA Documentation for Transition to Parole. The CC-I shall submit the completed CDC 128-B to the C&PR/RC CC III or designee. The C&PR/RC CC III shall ensure that a copy of the 128-B and copies of the source documents are forwarded to the appropriate parole region immediately for inclusion in the ADA folder of the field file. This information shall also be entered into DECS.

C. CDCR FORM 1515 – NOTICE AND CONDITIONS OF PAROLE

The CDCR Form 1515 is used to advise all inmates/parolees of the general conditions and their special conditions of parole. The following are instructions for the CC-I, Parole Agent, or other staff who issues the Notice of Conditions of Parole to the inmate/parolee. Prior to noticing the inmate of his/her condition of parole, the staff person will ensure that any necessary accommodation identified through the file review process or DECS are available and utilized, if necessary, when noticing the inmate of his/her conditions of parole.

Instructions for completing page 1 of the CDCR Form 1515.

1. **Review the CDC 611:** The staff person will complete the CDCR Form 1515, Notice and Conditions of Parole, in conjunction with the CDC Form 611, Release Program Study. The staff person will utilize the documentation on the CDC Form 611 to determine what accommodations may be needed to effectively communicate the CDCR Form 1515 information to the inmate. The staff person will initiate the form by clearly printing the inmate's CDCR Number and Name in the appropriate boxes.

2. **Document Parole Period**

- a) The staff person will write in the appropriate number of years for the inmate's parole period as indicated on the CDC Form 188, Legal Status Summary (LSS).

3. **Determine if Special Conditions of Parole apply to the Inmate/Parolee**

The staff person will review the C-File to determine whether or not these special conditions apply to the inmate:

- a) Gang Restriction-Review the CDC Form 812 and/or 812-A. If the inmate is a member or associate of any street gang or prison gang check the box.
- b) Mentally Disordered Offender-Check the box if the inmate has been certified by the BPH as a MDO pursuant to PC Section 2962.
- c) Contact with Victims(s) or Victims(s) Family-Review the Legal Status Summary (LSS), Probation Officer's Report (POR), CI&I, or Confidential Folder to determine whether there is a specific crime victim. If there is, check the first box.

(This does not include personal or public property crimes.) If the crime was committed against a person under the age of 18, check the second box.

4. Determine if Mandatory Special Conditions of Parole apply to the Inmate/Parolee

Review the C-File to determine whether or not these mandatory special conditions of parole apply to the inmate:

- a) Box #1-Review the LSS, 112, CI&I to determine whether or not the inmate is required to register pursuant to PC 290. If he/she is required to register, check this box.
- b) Box #2-Review the LSS, 112, CI&I to determine whether or not the inmate is required to register pursuant to PC 290.
- c) Box #3- -Review the LSS, CI&I Rap Sheet to determine whether or not the inmate has a current or prior conviction for PC 288 or 288.5. If he/she was previously convicted, or is currently committed for these offenses and is designated a High Risk Sex Offender per PC 3003 (g), check the box.
- d) Box #4- Review the LSS and POR to determine whether the inmate's current commitment includes a sex offense that was committed while the inmate was under the influence of alcohol. If he /she was, check this box.
- e) Box #5-Review the confidential folder to determine whether the inmate has a restriction order. If he/she does, check this box.

5. Review General Conditions of Parole with the Inmate

- a) The staff person will advise the inmate of the required length of his/her parole period and then review the conditions of parole with the inmate as follows:
 - 1) The staff person will advise the inmate that the General Conditions apply to every person on parole.
 - 2) The staff person will either read to or have the inmate read each condition to ensure it was effectively communicated. If the inmate has a disability affecting effective communication and/or a TABE score of 4.0 or below, the staff person should have the inmate repeat or explain or his or her understanding of the conditions of parole.

Instructions for Noticing the inmate on page 2 of the CDCR Form 1515

6. Review the Special Conditions of Parole with the inmate/parolee

- a) The staff person will advise he inmate that based upon his/her specific case factors; they must comply with these special conditions.

- b) The staff person will either read to or have the inmate read each applicable special condition, which is identified by a check mark in the corresponding box. After each condition is read, the staff person will ask the inmate what he/she understands about the condition to ensure effective communication.

7. Review the Mandatory Special Conditions of Parole with the inmate/parolee

- a) The staff person will advise the inmate that based upon his/her specific case factors; they must comply with these conditions of parole, which are mandated by law.
- b) The staff person will either read to or have the inmate read each applicable special condition which is identified by a check mark in the corresponding box. After each condition is read, the staff person will ask the inmate what he/she understands about the condition to ensure effective communication.

8. Document Observations

- a) After reviewing the condition of parole with the inmate, the staff person will instruct the inmate to sign and date page 1 and 2 in the appropriate boxes.

Note: If the inmate refuses to sign the form, the staff person shall remind the inmate that Condition #7 on page 1 stated that failure to sign the form will result in his/her being retained in custody. If the inmate still refuses to sign the form, after completing the form, the staff person shall write a Rules Violation Report for Failure to Sign Conditions of Parole.

- b) The staff person will check the box indicating they have reviewed DECS and the Field file (Parole Staff) or C-File (Institution Staff) for disability and effective communication needs. This review is mandatory.
- c) Based upon the staff person's observation during the issuance of the conditions of parole, the staff person will check the appropriate box indicating whether the inmate appeared to understand.
- d) If the staff person had to provide assistance with effective communication, he/she shall check the appropriate box and then circle what assistance was provided. The staff person shall then check the appropriate box indicating whether after assistance was provided, the inmate was (1) able to explain in his/her own words, or (2) still did not understand.
- e) The staff person shall then legibly print his/her name and title, and sign and date the form.
- f) Staff shall provide the inmate a copy of the CDCR Form 1515.
- g) The staff person shall update DECS in accordance to Section IX.

Instructions for completing Page 3 of the CDCR Form 1515

The following instructions are for the staff person who issues the Notice and Conditions of Paroles to the parolee.

- a) A special condition of parole must have a relation to the commitment offense, and be conduct which is in itself criminal, or, where the prohibited conduct is not criminal, the restriction must be reasonably calculated to prevent future criminality.
- b) Prior to discussion with the parolee, the staff person shall conduct a field file review and the DEC to determine whether the parolee needs assistance and/or accommodations. If needed, issuing staff shall ensure assistance and/or accommodations are provided to ensure effective communication.
- c) The staff person shall review the prior condition on page 1 and 2 with the parolee and initial and date all previous signatures, respectively.
- d) The staff person shall have the parolee explain in his/her own words what the condition mean.

9. Additional Special Conditions of Parole

- a) The staff person shall add special conditions of parole by checking the appropriate box and/or print in the special condition and enter the reasons for the condition(s).

10. Appeal

- a) The staff person shall explain to the parolee the right to appeal and right to request a reasonable accommodation and if requested, provide a CDC Form 602, Inmate/Parolee Appeal CDC Form 1824, Request For Reasonable ccommodation.

11. Staff Issuance/Observation

- a) The staff person shall enter the CDCR number and print the parolee's name in the appropriate box.
- b) The staff person shall have the parolee sign and date the conditions in the appropriate section.
- c) The staff person will check the box indicating a review of the DEC and the Field File (Parole staff) or C-File (Institutional Staff) for disabilities and effective communication source documents. This review is mandatory.
- d) The staff person shall check the appropriate box regarding his/her observation of the understanding of the conditions by the parolee. If the assistance was

provided, the staff person will check the appropriate box and circle what assistance was provided or enter under "Other" what assistance was provided.

e) The staff person shall print their name, sign and date where indicated and record this task in the parolee's record of supervision. The staff shall update the DEC in accordance to Section IX.

f) A copy of the conditions shall be given to the parolee.

XII. DIVISION OF ADULT PAROLE OPERATIONS (DAPO) AND BOARD OF PAROLE HEARINGS (BPH) - PAROLE PROCEEDINGS

All parolees shall be provided the opportunity to request a reasonable accommodation via a BPT Form 1073 to ensure effective communication and/or equal access to all parole proceedings. Agents shall review the BPT Form 1073 and the DEC prior to all parole proceedings, make plans to provide reasonable accommodations for any known disabilities, review the parolee's need for accommodation as the first step of any interaction with the parolee during parole proceeding, provide reasonable accommodations during parole proceedings, and update the DEC to document observed and self-reported disabilities, and any accommodations provided.

A. CONDITIONS OF PAROLE (COP)

1. The issuance of COP (including special conditions) is considered an event related to a parole proceeding and thus requires the same level of effective communication that would be required for any other due process related event.
2. The parole agent completing and issuing either the original or amended COP shall review the Disability and Effective Communication System (DECS) and conduct a field file review to identify any disabilities. If the parolee needs reasonable accommodation(s), the parole agent shall make the accommodation(s) available during the meeting with the parolee. When the parole agent does not have a necessary accommodation or does not already have a contact number for a local service provider (e.g. Sign Language Interpreter), he/she shall contact the ADA Coordinator at the Regional HQ for assistance. If the parolee requires a foreign language interpreter, the parole agent shall use an independent contracted interpretation service provider or a bilingual CDCR employee currently certified by the State of California as capable of providing interpretation for their designated language(s).
3. In the event of effective communication concerns due to a parolee's disability, the parole agent shall document in DECS how the COP was effectively communicated to the parolee.

B. PAROLE REVOCATION PROCESS

1. HOLD IS PLACED

- a) When a parolee commits an alleged violation of law and/or parole conditions, a PC 3056 hold is placed. All time lines are calculated from one (1) calendar day after the hold date (hold date is day zero). Upon notification of an alleged violation, the Agent of Record (AOR) completes a charge report (CDCR1502-B).
- b) **Not-In-Custody (NIC):** If a hold is not placed but the decision is made to refer the case to BPH for review, then it is considered a Not-in-Custody (NIC) proceeding. In NIC cases all time lines are calculated from discovery date. The discovery date is when DAPO staff receives the information and/or evidence. All NIC time lines are calculated from one (1) calendar day after the discovery date (discovery date is day zero). Prior to servicing notice to the parolee of the date and time of the hearing, the agent shall review DECS.
- c) The AOR shall:
 - 1) Consider the use of remedial sanctions and identify any disabilities after reviewing DECS. Considering remedial sanctions is done as part of the case conference process. Identifying disabilities is meant as an aid in placement of the parolee, but determining whether remedial sanctions are appropriate shall be done without regard to a parolee's disability or perceived disability.
 - 2) Complete the CDCR Form 1502-B:
 - i List each charge known at the time of the placement of the hold, which will require the parole agent to review the field file.
 - ii A detailed statement of fact for each charge shall be documented. The statement of fact may be based on a credible witness, e.g. officer, observer, victim or information from a law enforcement database. Information ascertained from a law enforcement database must include the arrest date, arresting agency and charges.
 - iii Make a recommendation.
 - 3) Once completed, the CDCR Form 1502-B along with the field file shall be forwarded to the Unit Supervisor (US) for case conferencing.

2. PROBABLE CAUSE DETERMINATION (PCD)

- a) While the Unit Supervisor (US) and parole agent conference the case, the US reviews the documents to determine if there is probable cause to properly refer the case to BPH. The PCD shall be completed no later than two (2) business days after the hold date.

- b) The US shall, upon receipt of the CDCR Form 1502-B, the field file, and relevant reports:
- 1) Review the CDCR Form 1502-B
 - 2) Evaluate the charge(s).
 - 3) Make a determination.

When making a determination the US shall:

- i Consider the use of remedial sanctions. This shall be done without regard to a parolee's disability or perceived disability. Disability information can be used when considering a particular placement of the parolee when identifying a program location that can accommodate the parolee's needs to participate in the program;
- ii Complete and indicate such in the decision box on the CDCR Form 1502-B;
- iii Sign and date the CDCR Form 1502-B;
- iv Complete RSTS PCD screen;
- v Forward the CDCR Form 1502-B along with the field file to the Field Unit Notification Agent (FUNA) for the Notice of Rights/Charges (NOR).

3. NOTICE OF RIGHTS/CHARGES (NOR)

The Notice Agent, upon receipt of the CDCR Form 1502-B and field file but, no later than three (3) business days after the hold date, shall:

- a) Review the Disability and Effective Communication System (DECS).
- b) Review the field file.
- c) Complete Section I of the BPT Form 1073 in accordance with Section VIII of this Remedial Plan and the back page of the form.

Note: All requirements for completion of this form are the same as described in Section VIII of this Remedial Plan.

- d) Copy and attach any ADA source documents identified from the field file and noted in Section I of the BPT Form 1073.

Note: If the parolee needs reasonable accommodation(s) the Notice Agent shall make the accommodation(s) available during the meeting with the parolee. When the Notice Agent does not have a necessary accommodation (e.g. sign language interpreter), he/she shall contact the ADA Coordinator at

the Regional HQ for assistance. If the parolee requires a foreign language interpreter, the Notice Agent shall use an independent contracted interpretation service provider or a bilingual CDCR employee currently certified by the State of California as capable of providing interpretation for their designated language(s).

- e) After the ADA and effective communication paper review is completed, the Notice Agent shall meet with the parolee to complete the NOR.
- f) During the meeting, the Notice Agent shall have the parolee complete Section II of the BPT Form 1073, allowing the parolee to self-identify any needed accommodations, and obtain the parolee's signature. If the need for an accommodation is identified at the meeting, the Notice Agent shall obtain the accommodation prior to continuing with the notice.
- g) The Notice Agent shall effectively communicate to the parolee the charges indicated on the CDCR Form 1502-B and his/her rights indicated on the BPT Form 1100, and complete Section III of the BPT Form 1073, documenting how the information was effectively communicated.
- h) The Notice Agent will ask the parolee to read, complete the name and date sections, and sign the BPT Form 1100. The Notice Agent will provide a copy of the Notice of Rights/Charges documents, the BPT Form 1073, the signed BPT Form 1100, and a blank copy of the Request for Witnesses (BPT Form 1100(b)), with an explanation of the 1100(b)'s purpose, to the parolee.
- i) If the parolee is housed in a county jail facility, and requests an accommodation or the Notice Agent identifies the need based on observations during the serve process, the Notice Agent will notify the county jail staff member supervising the parolee in the location where the serve process is conducted. Notification should occur prior to the Notice Agent departing the county jail facility, but no later than two business days after completing the serve.
- j) Any observations from the interview the staff member believes are pertinent should be written in the "Additional Comments" portion of this Section. This includes the name of any county jail staff that has been notified of a parolee's ADA needs, and any response provided by the county jail staff.
- k) The Notice Agent shall return the completed NOR documents (i.e. BPT 1073, and BPT 1100) to the AOR or US.
- l) Update DECS in accordance to Section IX as soon as possible but no later than 24 hours after the interview.

FUNA/DRUNA Reporting County Jail Non-Compliance

If a FUNA/DRUNA becomes aware of a "pattern" of non-compliance at a County Jail, they will report the issue to their Supervising Notice Agent (SNA) immediately.

The SNA will be responsible for notifying the DAPO Parole Litigation Compliance Unit (PLCU), Parole Administrator, or designee, within one business day of receipt of information.

The PLCU Parole Administrator will be responsible for initiating a telephonic case conference with the Board of Parole Hearings and the Corrections Standards Authority to determine if the incident warrants immediate transfer of the parolee, telephonic notification to the Jail Commander, or a meeting with county jail management.

The PLCU will be responsible for tracking complaints received by the FUNA/DRUNA for the purposes of identifying patterns of non-compliance at county jails. If the PLCU identifies a pattern, they will notify Office of Court Compliance, Corrections Standards Authority, and the administrators at the county jail.

4. VIOLATION REPORT SUBMITTED BY PAROLE AGENT

The parole agent investigates the behavior that may be in violation of parole; secures supporting documents, considers whether remedial sanctions are appropriate (and takes into consideration the disability information learned from the DECS review, and makes a decision regarding referral to the BPH, and if appropriate submits the Violation Report no later than six (6) business days after the hold date.

The parole agent shall:

- a) Review all appropriate information;
- b) Complete a violation report

The violation report includes the following:

BPT Form 1073: Notice and Request for Assistance at Parole Proceedings

BPT Form 1100: Notice of Rights and Acknowledgement

CDCR Form 1502-B: Charge Report

CDC Form 1676: Charge Sheet/Revocation Tracking/Scheduling

CDC Form 1521-B: Summary of Parole Adjustment

CDC Form 1521-D: Recommendation, Review and Signature Sheet

CDC Form 188: Legal Status Summary

CDC Form 1244: Parole Violation Disposition

CDCR Form 1654: Parole Revocation Hearing Notice and Witness Determination of Scheduled Hearing.

Police Reports, lab results, or any other supporting evidence, and any other related documents.

5. VIOLATION REPORT REVIEWED BY UNIT SUPERVISOR

- a) The US shall:
- 1) Review the report and ensure that the appropriate documentation is included;
 - 2) Determine if there is sufficient basis for the revocation to go forward;
 - 3) Determine if the report is accurate, complete; and
 - 4) Review the report and consider whether or not remedial sanctions are appropriate in lieu of forwarding the referral to the BPH for revocation proceedings.
 - 5) Complete RSTS US referral screen and the Parole Agent III (PA III) signature screen.
- b) The field unit support staff shall:
- 1) Compile each revocation packet.

The revocation packet shall include (at minimum) all documents listed in section 5 (b) above, as well as, any relevant documents that verify/identify a disability.

- 2) Send packet via overnight mail to the appropriate Decentralized Revocation Unit (DRU).

Note: Submitting incomplete packets can result in dismissal of charges due to violating time frames and/or providing inadequate documentation. Staff must make every effort to provide additional information and properly complete documentation in a timely manner to ensure the parolee is held accountable for the misconduct.

6. DECENTRALIZED REVOCATION UNIT – REVOCATION PACKET RECEIVED

The DRU receives the packet no later than nine (9) business days after the hold date, a copy is forwarded to the attorney, and Parole Administer completes the review.

- a) The DRU staff shall:
- 1) Reviews the packet for completeness by ensuring it contains all the required forms.
 - 2) If the packet is incomplete, the DRU shall contact the DAPO sender to request the missing documents. BPH will continue to process the packet after one business day, regardless if the requested documents are received, but failure to

respond to the BPH may ultimately result in the BPH being forced to dismiss the case.

- 3) After reviewing the packet, the DRU will do the following:
 - i Determine and update the current location of parolee.
 - ii Forward the revocation packet to the appropriate attorney panel.
 - iii Forward packet to the Parole Administrator assigned to the DRU to determine if a Return to Custody Assessment is appropriate.
- b) The contracted panel shall, upon receipt of the Revocation packet, assign an attorney.
- c) The Parole Administrator (ParAd) shall:
 - 1) Review the revocation packet for completeness,
 - 2) Review for accuracy of the charges,
 - 3) Determine whether there is a sufficient basis for the case to move forward, or
 - 4) Determine whether or not remedial sanctions are appropriate,

Note: If a decision is made to refer to remedial sanctions then DECS or the BPT 1073 included in the revocation packet shall be reviewed for information concerning appropriate placement, and

 - 5) Complete RSTS entries.
- d) After ParAd review, the DRU staff shall complete the charge RSTS entry and forward the packet to the Deputy Commissioner (DC) for continued processing.

7. RETURN TO CUSTODY ASSESSMENT (RTCA)

The BPH DC assesses the case factors to determine an appropriate proposed disposition of the case no later than ten (10) business days after the hold placement. This assessment will include the consideration of remedial sanctions if appropriate.

Parolees whose disabilities might prevent them from accessing or participating in particular programs shall not be excluded from consideration of remedial sanctions on account of their disabilities. If a parolee with a disability may be eligible for a remedial sanction placement, the DC shall contact the Parole Administrator or such other DAPO or OSATS staff who may facilitate the placement of the parolee in a remedial sanction program. Parolees with disabilities shall not be returned to custody in lieu of remedial sanctions solely on account of their disabilities.

- a) The Deputy Commissioner assigned to the DRU shall:
 - 1) Establish if the BPH has jurisdiction.
 - 2) Review DECS in accordance with Section IX of this Remedial Plan and document the DECS and ADA review on the BPT Form 1104.
 - 3) Review the revocation packet including the parole agent, US and ParAd. recommendations,
 - 4) Consider the appropriateness of remedial sanctions,
 - 5) Determine an appropriate proposed disposition and enter it into RSTS.
 - 6) After the Deputy Commissioner completes the RSTS, he/she returns the documents to the DRU staff member to process.
- b) The Attorney shall access RSTS in order to review the RTCA offer.

8. ATTORNEY CONSULTS WITH PAROLEE

The attorney consults with parolee no later than eleven (11) business days after the hold placement.

- a) The attorney shall:
 - 1) Review the RTCA offer via RSTS.
 - 2) Review the BPT Form 1073 (including any attached source documents) and the DECS for any documented disabilities and/or barriers to effective communication.
 - 3) Ensure any needed accommodations are identified and made available for the consultation. This would include communicating any such need (e.g. Sign Language Interpreter) to the assigned DRU to ensure it is available at the time of the consultation.
 - 4) Meet with the parolee at the scheduled time and date.
 - 5) Provide the parolee with a copy of the revocation packet.
 - 6) Effectively communicate any offer or offers made by the DC.
 - 7) Explain the hearing rights.
 - 8) Discuss litigation strategy regarding the case and assist the parolee in making a determination as to how to proceed with the case.

- 9) Assess whether or not the parolee needs further accommodation(s) to proceed.
- 10) Determine if there is a sufficient offer of proof for a complete defense to all the charges.
- 11) Identify potential witnesses to be called should the case proceed to a revocation hearing.
- 12) The attorney will update the DEC in accordance to Section IX on any ADA accommodation and/or effective communication methods provided to the parolee at the attorney consultation, as soon as possible but no later than 24 hours after the consultation.

9. EXPEDITED PROBABLE CAUSE HEARING

An expedited PCH with documentary and/or live testimony shall be scheduled if the parolee through counsel can make a sufficient offer of proof for a complete defense to all the charges

The Expedited Probable Cause Hearing will be held no later than twelve (12) business days after the hold placement.

- a) The attorney shall communicate the request for an expedited PCH to the assigned DRU as soon as possible following the consultation.
- b) The DRU Support Staff shall arrange for an expedited PCH upon request from attorney and follow all procedures as described below (under "PCH" section).
- c) The DC at an expedited PCH shall consider any offer of proof in determining probable cause and follow all procedures as described below (under "PCH" section).

10. PROBABLE CAUSE HEARING (PCH)

The PCH will be held with the DC, the parolee, and parolee's attorney no later than thirteen (13) business days after the hold date.

- a) If a PCH occurs at a DRU, the DRU staff shall:
 - 1) Reserve a hearing room on the appropriate date.
 - 2) Review the BPT Form 1073 (including any attached source documents) and check DECS for any documented disabilities and/or barriers to effective communication.
 - 3) Ensure that accommodation(s) are available for the hearing. If the parolee requires an auxiliary aid to effectively communicate and the aid is not available, the DRU will contact the BPH ADA Compliance Unit (ADACU) at

(916) 324-7604, to obtain the appropriate accommodation. In instances where the parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. Two days prior to the hearing, the DRU will confirm with the BPH that an interpreter is scheduled to attend the hearing.

- b) If a PCH occurs at a non-DRU location, the Board Revocation Representative (BRR) will:
 - 1) Review the BPT Form 1073 (including any attached source documents) and check DECS for any documented disabilities and/or barriers to effective communication.
 - 2) Ensure that accommodation(s) are available for the hearing. If the parolee requires an auxiliary aid to effectively communicate and the aid is not available, the BRR will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. Two days prior to the hearing, the BRR will confirm with the BPH that an interpreter is scheduled to attend the hearing.
 - 3) If BRRs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then BRRs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, BRRs shall notify the BPH Quality Control Unit of the noncompliance.
- c) The assigned attorney shall arrive at the PCH hearing location at the scheduled time and date prepared to represent the parolee's interests.
- d) The Deputy Commissioner shall:
 - 1) Be available to conduct a PCH.
 - 2) Conduct an ADA review prior to conducting the PCH. This includes reviewing the DECS and BPT Form 1073 and briefly interviewing the parolee to ensure there will be no barriers to effective communication. The DC will ensure that the appropriate accommodation(s) are provided. If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.

- 3) Determine whether the BPH has jurisdiction.
- 4) Provide the attorney and parolee with an opportunity to present evidence to dispute the charges and/or mitigate the disposition.
- 5) Determine if there is sufficient evidence to conclude that a reasonable person would have a strong suspicion that the parolee committed the alleged misconduct so as to constitute probable cause.
- 6) If probable cause is found, determine if the conduct warrants incarceration or a remedial sanction (if appropriate) and offer a negotiated disposition to resolve the case.
- 7) Document the parolee's decision on the BPT Form 1103 PCH, including the reason for the determination and the evidence relied upon, and document the fact that the DC reviewed DECS.
- 8) Provide the parolee with a summary of the results including a copy of the BPT 1104.
- 9) Enter any accommodations provided into the DEC.
- 10) If DCs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then DCs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, DCs shall notify the BPH ADA Unit of the noncompliance.

e) Accept Process:

If the parolee, after consulting with counsel decides to accept the negotiated disposition the attorney and parolee will complete the BPT 1104-B, , Parolee-Attorney Decision form and provide a copy to the DC. The DC will provide the packet to the DRU staff who will review the documents for completeness prior to forwarding to Records.

f) Reject Process:

If the parolee rejects the offer at the PCH,

- 1) The attorney and Deputy Commissioner shall:
 - i Complete the BPT Form 1104-B.

- ii The attorney will assist the parolee's completion of the Request for Witnesses form (BPT Form 1100(b) and present it to the DC for approval of requested witnesses.
 - iii The Deputy Commissioner will allow counsel to justify the request for witnesses, and either approve or disapprove each witness providing written justification for each decision in his/her report/worksheet.
- 2) After the appropriate documents are completed, the DRU will:
- i Schedule a Revocation hearing **no later than 35 calendar days** after hold date. If the timeline expires during a weekend or on a holiday, this step will occur no later than the next business day after the weekend or holiday.
 - ii Subpoena all State witnesses.

11. REVOCATION HEARING

The BPH shall schedule a Deputy Commissioner to conduct the Revocation Hearing. The hearing will occur no later than thirty-five (35) calendar days after the hold date.

Note: If the thirty-fifth (35th) calendar day falls on a weekend or holiday, the hearing will occur no later than the next business day after the weekend or holiday.

a) The Deputy Commissioner shall:

- 1) Tape record the Revocation Hearing. It is the Deputy Commissioner's responsibility to ensure that they have the proper tape recording equipment, including a blank cassette tape, available at the hearing.
- 2) The Deputy Commissioner shall establish the BPH's jurisdiction.
- 3) Determine, based on the evidence presented by the State and by the parolee, if a preponderance of the evidence exists to substantiate the charges.
- 4) Prior to making a good cause determination, provide an opportunity for the parolee to present evidence through documents, witnesses, and the parolee's own testimony, all of which may include hearsay.
- 5) Determine, when good cause is found, if the conduct warrants a RTC and, if so, the length of the RTC.
- 6) Document the decision on the BPT Form 1103-REV by indicating the evidence relied on to support the finding, and if extending the incarceration, the reasons relied on to extend, and document the fact that the DC reviewed DECS.

- 7) Provide the parolee with a copy of the summary of the hearing.
- 8) Enter into the DEC system the accommodations, if any, provided.
- 9) If DCs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then DCs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, DCs shall notify the BPH ADA Unit of the noncompliance.

12. NOT IN CUSTODY (NIC) HEARING

The notice of the date and time of a NIC hearing is considered an event related to a parole proceeding and thus requires the same level of effective communication that would be required for any other due process related event.

The parole agent completing and issuing the notice of the date and time of a NIC hearing shall review the Disability and Effective Communication System (DECS) and conduct a field file review to identify any disabilities. If the parolee needs reasonable accommodation(s), the parole agent shall make the accommodation(s) available during the meeting with the parolee. When the parole agent does not have a necessary accommodation or does not already have a contact number for a local service provider (e.g. Sign Language Interpreter), he/she shall contact the ADA Coordinator at the Regional HQ for assistance. If the parolee requires a foreign language interpreter, the parole agent shall use an independent contracted interpretation service provider or a bilingual CDCR employee currently certified by the State of California as capable of providing interpretation for their designated language(s).

The parole agent shall then document how the notice of the date and time of a NIC hearing was effectively communicated with the parolee.

C. REVOCATION EXTENSION PROCEDURES: DAPO AND BPH

These procedures are to be followed in parole revocation extension cases arising from reportable misconduct committed by inmates/parolees in Return-to-Custody status **non-CDCR locations**.

1. REVOCATION EXTENSIONS DEFINED:

- a) B An inmate/parolee who commits an act of reportable misconduct, while in revoked status, is subject to Revocation Extension proceedings.

- b) An inmate/parolee subject to the Revocation Extension process is defined as any Parole Violator-Return to Custody (PVRTC) and/or Parole Violator-with New Term (PVWNT), who has not reached his/her Revocation Release Date.
- c) An inmate/parolee is deemed to be in revoked status once he/she either unconditionally or optionally waives his/her right to a hearing with a return to custody assessed or is ordered returned to custody at a revocation hearing.
- d) If the discovery date is beyond the revocation release date and the inmate/parolee has not been release (i.e. a hold from another agency) the misconduct is a revocation offense, but shall be processed through the revocation extension procedures. DAI shall refer all instances of misconduct (Division A, B, C, D, E, F).
- e) Acts of Reportable Misconduct subject to the Revocation Extension process are defined as:
 - 1) The misconduct consists of an act initially identified as a Division A, B or C offense pursuant to CCR Section 3323,
 - 2) The misconduct consists of an act that was initially identified as other than a Division A, B, or C offense and is subsequently classified as either a Division A, B, C offense,
 - 3) The misconduct consists of a violation of a special condition of parole prohibiting contact with a specific person, or class of persons, such as minors. This does not include the general class of individuals specified as “gang members.”
 - 4) The inmate/parolee refuses to sign his/her general and/or special conditions of parole, or ⁹
 - 5) The inmate/parolee refuses to sign any form required by the Department of Justice explaining his/her responsibility to register per Penal Code Section 290. ¹⁰

2. RESPONSIBILITY:

- a) Institutional staff will handle acts of reportable misconduct committed by inmates/parolees in Return-to-Custody status in an Institution.
- b) DAPO will handle acts of reportable misconduct committed by inmates/parolees in Return-to Custody status in a non-CDCR location.

⁹ This specific act is a “Revocation” should be processed through the normal revocation violation referral process.

¹⁰ Same as footnote #1.

- c) When an act of reportable misconduct occurs at a non-CDCR location and the inmate/parolee is transferred to a CDCR Institution with a Decentralized Revocation Unit (DRU) prior to the completion of the Revocation Extension process, the case will continue to be processed by BPH field staff (e.g. DRU staff).
 - d) When an act of reportable misconduct occurs at a non-CDCR location and the inmate/parolee is transferred to a CDCR Institution which does not have a DRU prior to the completion of the Revocation Extension process, the case will be processed by DAI Revocation Extension desk staff per DAPO Revocation Extension policies and procedures (see DAPO Revocation Extension policy and procedure).
 - e) In cases where a inmate/parolee has been transferred from an Institution to a non-CDCR location prior to the completion of the Notice of Rights/Charges, the C&PR from the sending Institution shall forward the Notice of Rights/Charges documents to the appropriate Supervising Notice Agent who will coordinate completion of the Notice of Rights/Charges. The Notice Agent shall return the completed Notice of Rights/Charges documents the C&PR at the sending Institution.
 - f) In cases where an inmate/parolee has been transferred from a non-CDCR location to an Institution with a Decentralized Revocation Unit, the FUNA shall forward the Notice of Rights/Charges documents to the appropriate DRUNA. The Notice Agent will return the completed Notice of Rights/Charges documents to the FUNA.
 - g) In cases where an inmate/parolee is transferred from a non-CDCR location to an Institution without a Decentralized Revocation Unit, the FUNA shall forward the Notice of Rights/Charges documents to the C&PR to coordinate completion of the Notice of Rights/Charges. The Notice Agent will return completed Notice of Rights/Charges documents to the FUNA.
3. **TIMELINE SUMMARY:** See flow chart for details. Good cause delay is any circumstance causing a delay not within the control of the State.
4. **DISCOVERY DATE:** The discovery date is the date the DAPO's staff receives the information and/or evidence amounting to reportable misconduct. All DAPO time lines are calculated from one (1) calendar day after the discovery date (discovery date is day zero).
5. **UNIT SUPERVISOR REVIEW FOR REFERRAL:**
- a) **Timeline:** The Unit Supervisor (US) will complete the referral review no later than two (2) business days after the discovery date.
 - b) **Definition:** The US and parole agent complete this step when the parole agent receives the information, conferences the case with the US, completes the

appropriate paperwork and the US reviews the documents to determine if there is probable cause to properly refer the case to BPH including whether the reportable act of in-custody misconduct meets the BPH referral criteria.

c) ***Procedure:***

DAPO Process-AOR: Upon notification of an act of a reportable misconduct, the Agent of Record shall complete a Miscellaneous Decision report (BPT 1135), which shall serve as both the Notice of Charges and the Violation Report for the Revocation Extension process.

After the AOR completes the BPT 1135, the Agent of Record will forward the BPT 1135 and the field file to the US for case conferencing.

d) ***DAPO Process-US:*** Upon receipt of the BPT 1135, the field file, and relevant reports, the US reviews the BPT 1135, evaluates the act(s) of reportable misconduct and determines if there is probable cause to properly refer the case to BPH including if it meets the BPH referral criteria (listed on the first page).

e) If the criteria are met, the Unit Supervisor shall:

- 1) Sign the BPT 1135,
- 2) Forward the BPT 1135 along and field file to the Field Unit Notification Agent (FUNA) for Notice of Rights/Charges.

f) If the misconduct is not referable, then the process ends and the case is closed.

g) If the act of reportable misconduct occurs **within 35 calendar days** of the inmate/parolee's revocation release date, the Unit Supervisor shall:

- 1) Complete a Report of In-Custody Misconduct (BPT 1135A) requesting the BPH retain the inmate/parolee in custody pending the revocation extension proceedings,
- 2) Fax the BPT 1135A to the BPH Special Processing Unit (916) 324-6966, and
- 3) Contact the BPH telephonically at (916) 324-1941 to confirm receipt of the fax and advise them of the impending release date or unavailable status.

6. NOTICE OF RIGHTS/CHARGES

a) ***Time line:*** DAPO will complete the Notice of Rights/Charges no later than three (3) business days after the discovery date.

b) ***Definition:*** DAPO accomplishes this step when the Notice Agent receives and prepares the documents to serve on the inmate/parolee. First, the Notice Agent conducts an ADA and effective communication review, documenting the result. The Notice Agent then meets with the inmate/parolee to provide the relevant

documents, and to explain the revocation extension process to the inmate/parolee including the nature of the charges alleged, and his/her rights. Finally, the Notice Agent completes the Notice of Rights/Charges documentation and returns the packet to the Field Unit.

c) ***Procedure:***

DAPO Process-Notice Agent: Upon receipt of the BPT 1135 and field file, the Notice Agent shall, prior to the 3rd business day from the discovery date:

- 1) Review the Disability and Effective Communication (DEC) system.
- 2) Review the field file.
- 3) Complete Section I of the BPT 1073. Note: All requirements for completion of this form are the same as described in the Revocation process.
- 4) Copy and attach any ADA source documents identified from the field file and noted in Section I of the BPT 1073. Note: If the inmate/parolee needs reasonable accommodation(s) the Notice Agent shall make the accommodation(s) available during the meeting with the inmate/parolee. When the Notice Agent does not have a necessary accommodation, he/she shall contact the ADA Coordinator at the Regional HQ for assistance. If the inmate/parolee requires a foreign language interpreter, the Notice Agent shall use an independent contracted interpretation service provider or a bilingual CDCR employee currently certified by the State of California as capable of providing interpretation for their designated language(s).
- 5) After the ADA and effective communication review, the Notice Agent shall meet with the inmate/parolee to effectuate the service.
- 6) During the meeting, the Notice Agent shall complete Section II, BPT 1073, including obtaining the inmate/parolee's signature.
- 7) Next the Notice Agent shall advise the inmate/parolee of the charges indicated on the BPT 1135 and of his/her rights indicated on the BPT 1135A-1, and complete Section III, BPT 1073.
- 8) The Notice Agent will ask the inmate/parolee to read, complete the name and date sections, and sign the BPT 1135A-1. The Notice Agent will provide a copy of the Notice of Rights/Charges documents, the signed BPT 1135A-1, and a blank copy of the Request for Witnesses (BPT 1100(b)), with an explanation of the 1100b's use, to the inmate/parolee.
- 9) If the parolee is housed in a county jail facility, and requests an accommodation or the Notice Agent identifies the need based on observations during the serve process, the Notice Agent will notify the county jail staff member supervising the parolee in the location where the serve process is conducted. Notification should occur prior to the Notice Agent departing the

county jail facility, but no later than two business days after completing the serve.

- 10) Any observations from the interview the staff member believes are pertinent should be written in the "Additional Comments" portion of this Section. This includes the name of any county jail staff that has been notified of a parolee's ADA needs, and any response provided by the county jail staff.
- 11) The Notice Agent will enter information from the BPT 1073 into the DEC system.-The Notice Agent will return the completed Notice and Request for Reasonable Accommodations and the Notice of Rights/Charges documents (i.e. BPT 1073, and BPT 1135A-1) to the field unit support staff.
- 12) In cases where an inmate/parolee has been transferred from an Institution to a non-CDCR location prior to the completion of the Notice of Rights/Charges, the C&PR from the sending Institution shall forward the Notice of Rights/Charges documents to the appropriate Supervising Notice Agent who will coordinate completion of the Notice of Rights/Charges. The Notice Agent shall return the completed Notice of Rights/Charges documents the C&PR at the sending Institution.
- 13) In cases where an inmate/parolee has been transferred from a non-CDCR location to an Institution with a Decentralized Revocation Unit, the FUNA shall forward the Notice of Rights/Charges documents to the appropriate DRUNA. The Notice Agent will return the completed Notice of Rights/Charges documents to the FUNA.
- 14) In cases where an inmate/parolee is transferred from a non-CDCR location to an Institution without a Decentralized Revocation Unit, the FUNA shall forward the Notice of Rights/Charges documents to the C&PR to coordinate completion of the Notice of Rights/Charges. The Notice Agent will return completed Notice of Rights/Charges documents to the FUNA.

7. IN-CUSTODY MISCONDUCT REPORT SUBMITTED BY AGENT OF RECORD

- a) **Time line:** The Agent of Record submits the Report of In-Custody Misconduct (BPT 1135A) to the Unit Supervisor for review no later than six (6) business days after the discovery date.
- b) **Definition:** DAPO completes this step when the Agent of Record completes the BPT 1135A.
- c) **Procedure:**
DAPO Process-AOR: The Agent of Record does the following:
 - 1) Completes a BPH 1135A, Report of In-custody Misconduct.

- 2) If appropriate updates BPH 1135, Miscellaneous Decision report to reflect additional information learned during follow-up investigation.
- 3) Completes a CDCR 1654, Parole Revocation Hearing Notice and Witness Determination.

8. IN-CUSTODY MISCONDUCT REPORT REVIEW BY UNIT SUPERVISOR

- a) **Time line:** The BPT 1135A review by the Unit Supervisor will be completed no later than seven (7) business days after the discovery date.
- b) **Definition:** The US completes this step by reviewing the BPT 1135A and updated BPT 1135 if applicable.
- c) **Procedure:**
DAPO Process-US: The Unit Supervisor does the following:
 - 1) Reviews the BPH 1135A for accuracy.
 - 2) Reviews the supporting evidence/documents.
 - 3) Hand delivers the documents along with the field file to the field unit support staff for processing.

9. REFERRAL TO THE BPH

- a) **Time line:** The referral to the BPH will be completed no later than seven (7) business days after the discovery date.
- b) **Definition:** DAPO completes this step when the Field Unit support staff provides the BPH with the Revocation Extension packet.
- c) **Procedure:**
DAPO Process-Field Unit Support Staff: Upon receiving the revocation extension packet, the field unit support staff provides the following documents to the Special Processing Unit at the BPH, fax number (916) 324-6966.

Revocation Extension packets generated from DAPO shall include (at minimum) the following documents:

 - BPT 1135: Miscellaneous Decision,
 - BPT 1135A: Report of In-custody Misconduct,
 - BPT 1135A-1: Notice of Rights and Acknowledgement of the Revocation Extension Proceedings,
 - BPT 1073: Notice and Request for Assistance at Parole Proceeding,
 - CDC 112: Chronological Inmate History,
 - CDC 188: Legal Status Summary,
 - CDCR 1654: Parole Revocation Hearing Notice and Witness

Determination, and any other related documents.

The field unit support staff faxes¹¹ or overnight mails the following documents and other related documents to the Special Processing Unit at the BPH. The documents can be faxed to (916) 324-6966 or sent via overnight mail service to the attention of the Special Processing Unit: Tracking Desk, 1515 K Street, Ste 600, Sacramento, CA 95814.

Submitting incomplete packets can result in dismissal of charges due to violating *Valdivia* time frames and/or providing inadequate documentation. Institutions must make every effort to timely provide additional information, or to properly complete documentation, when requested by the Special Processing Unit to ensure the inmate/parolee is held accountable for the misconduct

10. BPH SPECIAL PROCESSING UNIT RECEIVES PACKETS

- a) ***Time line:*** The BPH Special Processing Unit receives the revocation extension packet no later than nine (9) business days after the discovery date.
- b) ***Definition:*** The BPH completes this step when the BPH Special Processing Unit receives the revocation extension packet, reviews the documents for completeness and logs the case for tracking, conducts a review pursuant to ADA to assess ADA accommodations and effective communication needs, notifies the panel attorney office of the case, and provides a copy of the packet to the Deputy Commissioner.
- c) ***Procedure:***
BPH Process: Upon receipt of the Revocation Extension DAPO packet, the Special Processing Unit reviews the packet for completeness by ensuring it contains all the required forms (see complete list under "Referral to BPH") and correct completion of all the form.

If the packet is incomplete, the Special Processing Unit shall contact the DAPO sender to request the missing documents. BPH will continue to process the packet after one business day, regardless if the requested documents are received, but failure to respond to the BPH may ultimately result in the BPH being forced to dismiss the case.

After reviewing the packet, the Special Processing Unit will do the following:

- Determine and update the current location of inmate/parolee.
- Check the DEC system and enter any anticipated accommodation(s), during the Attorney Consultation, PCH, and Revocation Extension Hearing.

¹¹ When providing information to the BPH Special Processing Unit faxing should always be the primary method of sending information. However, if the fax machine is not functional then overnight mail may be considered as an alternative method to provide the documents.

- Based on the inmate/parolee's custody location, the BPH will forward the revocation extension packet to the appropriate panel attorney satellite office.
- Complete the informational portion of a BPT 1104, Revocation/Revocation Extension Return to Custody Assessment form, and attach it to the packet.
- Forward packet to the Deputy Commissioner assigned to the Special Processing Unit to determine if a Return to Custody Assessment is appropriate.
- Schedule a PCH **no later than thirteen (13) business days** after the discovery date.
- Advise the attorney of the PCH date.
- When the Inmate/Parolee is **within 35 calendar days** of the revocation release date, the DC, where appropriate, will take an action to hold the inmate/parolee pending the completion of the Revocation Extension proceedings.. The BPH may extend the hold beyond the release date, but no later than 35 calendar days from the discovery date. For example: If the discovery date is 2 calendars days before the release date then the hold will be placed for up to 33 calendars days after the release date.
- Schedule a Deputy Commissioner for the PCH.

11. ATTORNEY ASSIGNMENT (ATTORNEY RECEIVES PACKET)

- a) ***Time line:*** The Attorney Assignment will be completed no later than nine (9) business days after the discovery date.
- b) ***Definition:*** The BPH Special Processing Unit completes this step by providing attorney a copy of the Revocation Extension packet, and by providing a copy of the relevant documents to the Institution Revocation Extension Desk staff.
- c) ***Procedure:***
BPH Process: Upon receiving the Revocation Extension packet, the Special Processing Unit staff will:
 - 1) **For Panel Attorney:**
 - i Provide the appropriate panel attorney office with a copy of the revocation extension Packet (including any no later than dates) and request the name of the assigned attorney.

- ii Advise panel attorney to inform the assigned attorney to contact the Special Processing Unit to schedule a telephonic PCH prior to the PCH no later than date.
- iii Inform panel attorney that failure of counsel to contact the Special Processing Unit within the prescribed time lines will result in the case being postponed based upon a good cause finding for failure to appear and rescheduled for a new PCH.

2) For Decentralized Revocation Unit (for cases originating from DAPO):

- i Provide the appropriate DRU/Board Revocation Representative with a copy of the revocation extension packet (including no later than dates).
- ii Provide the DRU/Board Revocation Representative with the name of the attorney and the PCH scheduled date.

12. REVOCATION EXTENSION ASSESSMENT

- a) **Time line:** The Revocation Extension Assessment (REA) will be completed no later than ten (10) business days after the discovery date.
- b) **Definition:** The BPH completes this step by completing and documenting an ADA and effective communication review to determine if the inmate/parolee needs accommodation(s), and assesses the case factors to determine an appropriate proposed disposition.
- c) **Procedure:**
BPH Process: The Deputy Commissioner assigned to the Special Processing Unit shall first establish if the BPH has jurisdiction. There is no jurisdiction if the revocation release date expired, unless there is good cause for delay. The Deputy Commissioner will review the DEC system and document the ADA review on the BPT 1104 – Return to Custody/Revocation Extension Form. If jurisdiction is established then the Deputy Commissioner assesses the case factors to determine the appropriate proposed disposition and completes the documents as follows:
 - d) If the Deputy Commissioner determines that a revocation extension is unwarranted, the Deputy Commissioner will note BPHs decision not to proceed by re-affirming the release date in the decision section of the BPT 1135A - Report of In-Custody Misconduct and will not complete the BPT 1104 – Return to Custody/Revocation Extension Form.
 - e) If the Deputy Commissioner determines that a revocation extension is warranted, the Deputy Commissioner shall complete the BPT 1135A - Report of In-Custody Misconduct and the BPT 1104 – Return to Custody/Revocation Extension Form using the guidelines listed in BPH Regulations, CCR, Title 15, Division 2, Section 2742.

- f) If the Deputy Commissioner determines that a revocation extension is warranted and the inmate/parolee **is within 35 calendar days** from his/her revocation release date, the Deputy Commissioner shall retain the inmate/parolee in custody for a period not to exceed 35 calendar days from the discovery date. Prior to taking the action to maintain the hold pending the revocation extension hearing, the BPH Deputy Commissioner shall consider the timeliness of the submission of the misconduct report as one factor in maintaining the hold. The Deputy Commissioner shall take this action in the decision section of the BPT 1135A - Report of In-Custody Misconduct. The Deputy Commissioner will complete the BPT 1104 – Return to Custody/Revocation Extension Form using the attached assessment guidelines.

If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

After the Deputy Commissioner completes the Report of In-Custody Misconduct and Assessment Offer, the Deputy Commissioner returns the documents to the Special Processing Unit staff member to process and provide the REA to panel attorney and the appropriate staff (i.e. Institution, DRU, BRR). Where the BPH identifies ADA accommodation(s), or effective communication needs, to be provided at the Attorney Consultation, PCH, and Revocation Extension Hearing, the BPH staff will communicate these accommodation(s) to the appropriate staff on the fax cover in bold type.

13. ATTORNEY CONSULTATION

- a) **Time line:** The attorney will complete a consultation with the inmate/parolee no later than eleven (11) business days after the discovery date.
- b) **Definition:** Panel attorney completes this step when the attorney calls the non-CDCR location to initiate the visit process, conducts a face-to-face meeting with the inmate/parolee, returns the appropriate documents, and enters any ADA accommodation and/or effective communication methods used into the DEC system.
- c) **Procedure:**
Panel Attorney Process:
For DAPO initiated cases, the attorney contacts the Board Revocation Representative or County jail (whichever is applicable for the location) at least 24 hours prior to the “Attorney Consultation” no later than date, via telephone and schedules a visit with the inmate/parolee, advising the appropriate BPH staff (i.e. SPU)of any ADA accommodations and/or effective communication methods that may be needed to conduct the consultation. Prior to the scheduled visit, the appropriate staff will ensure the inmate/parolee is escorted for the visit and ensure appropriate clearances for the attorney’s entrance into the location. The attorney meets with the inmate/parolee.

For DAPO cases transferred to an institution (prior to the completion of the Revocation Extension process) where there is a DRU, the attorney will contact the DRU staff to schedule the visit. Prior to the scheduled visit, the DRU staff will ducat the inmate/parolee for the visit and ensure appropriate clearances for the attorney's entrance into the institution.

The attorney shall meet with the inmate/parolee at the scheduled time and date to discuss the REA, explain the hearing rights, and assist the inmate/parolee in making a determination as to how to proceed with the case. In addition, the attorney will assess whether or not the inmate/parolee needs further accommodation(s) to proceed. During the consultation, the attorney shall use effective communication to explain the REA and that parolees are not required to accept or reject a RTC until the PCH. Attorneys must allow 72 hours for their *Armstrong* class member clients to make a decision about the REA.

If the inmate/parolee and attorney decide to accept the REA, the attorney and inmate/parolee will complete the BPT 1104, and leave it with the DRU/Board Revocation Representative. Additionally, attorney will enter into the DEC system on the BPH Accommodation Chrono any ADA accommodation and/or effective communication methods provided to the inmate/parolee at the attorney consultation. Any DEC entry shall be made as soon as possible but within 24 hours of completing the interview.

In the rare event that the parolee chooses to accept the REA without a PCH, the assigned attorney shall consult with the DC to ensure the parolee's waiver is knowing, voluntary, and intelligent. The attorney should be particularly aware of *Armstrong* class members with disabilities affecting their ability to understand (i.e. developmental, hearing, learning) when counseling their clients regarding attending the PCH.

- d) **BPH Process:** The DRU/Board Revocation Representative staff will do the following if the REA is accepted at the REA attorney consultation:
- 1) Review the documents for completeness,
 - 2) Fax a copy of the completed documents to the BPH Special Processing Unit at (916) 324-6966,
 - 3) Cancel any tentatively scheduled hearing on the case, and
 - 4) provide the Revocation Extension paperwork is given to the DRU to be forwarded to Case Records North or South for posting and release date calculation as required through established procedures.

14. EXPEDITED PROBABLE CAUSE HEARING WITH OFFER OF PROOF

- a) ***Time line:*** The BPH will conduct an expedited probable cause hearing with offer of proof no later than twelve (12) business days after the discovery date. The

expedited PCH is only applicable to inmates/parolees whose acts of in-custody misconduct are within 35 calendar days of their revocation release date.

- b) **Definition:** The BPH accomplishes this step only after the attorney provides a written request for an expedited PCH with an offer of proof to justify the request. The BPH reviews the offer of proof and, if appropriate, schedules and conducts the hearing.
- c) **Procedure:**
 - Panel Attorney Process:** The attorney requests an expedited probable cause hearing, if the inmate/parolee's act(s) of in-custody misconduct are within 35 calendar days of his/her revocation release date, and there is substantial evidence that the inmate/parolee is not culpable of the alleged misconduct. The attorney makes a written request for the expedited hearing to the BRR or DRU staff, or faxes the request directly to Special Processing Unit at (916) 324-6966. The attorney substantiates the request with an offer of proof.
- d) **BPH Process (DRU/BRR):** When an attorney requests an expedited PCH with an offer of proof, the DRU/BRR:
 - 1) Make a copy of the request and retain it in the revocation extension packet, and
 - 2) Fax request with the offer of proof to the BPH Special Processing Unit for review at (916) 324-6966.
- e) **BPH Process (Special Processing Unit):** Upon request of an expedited PCH, the BPH will:
 - 1) Review the request and offer of proof.
 - 2) Determine whether the request is appropriate, and advise the attorney and the DRU/BRR of the decision.
 - 3) If **approved**, the BPH will schedule the expedited probable cause hearing and advise the attorney and the DRU/BRR of the date.
 - 4) If **not approved**, the BPH will confirm the date of the PCH with all relevant parties.

15. PROBABLE CAUSE HEARING:

- a) **Time line:** The PCH will be completed no later than thirteen (13) business days after the discovery date.
- b) **Definition:** The BPH accomplishes this step by conducting a hearing that includes an ADA and effective communication review, including providing accommodations if necessary, making a probable cause determination based on the evidence in the packet and the evidence presented by the parolee and his

attorney; and, where the DC makes a probable cause finding, the DC will offer a negotiated disposition based on the case factors. The DC will document the results of the PCH and the Special Processing Unit will forward the documentation to DRU/Board Revocation Representative.

c) ***Procedure:***

BPH Process-DRU/BRR: When DAPO initiates a case that is transferred to an institution (prior to the completion of the Revocation Extension Process) with a DRU, the DRU staff will reserve a hearing room on the appropriate date. The DRU will ensure that accommodation(s) are available for the hearing. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the DRU will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. The DRU will also confirm that an interpreter will attend with the BPH two days prior to the hearing.

When DAPO initiates a case that is transferred to an institution (prior to the completion of the Revocation Extension Process) where there is NO DRU, the BPH staff processing the case will contact the Revocation Extension Desk staff who will inform the C&PR, or designee, of required ADA accommodations by using the BPT 1073. The C&PR, or designee, will make the accommodation(s) available. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the C&PR, or designee, will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires the use of a sign language interpreter, the C&PR will coordinate the BPH ADACU. The BPH ADACU staff will notify the Institution's C&PR /Revocation Ext. Desk at least two days prior to the hearing, to allow the Institution to prepare gate clearances. The Revocation Extension Desk will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation were made.

When DAPO initiates a case for an inmate/parolee housed at a non-CDCR location, the Board Revocation Representative staff will reserve the hearing room on the appropriate date. The Board Revocation Representative will provide appropriate the accommodation(s) for the hearing. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the Board Revocation Representative will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. In addition, the Board Revocation Representative will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation have been made.

If BRRs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then BRRs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class

members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, BRRs shall notify the BPH ADA Unit of the noncompliance.

If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

- d) **Panel Attorney Process:** The attorney shall meet with the inmate/parolee at the scheduled time and date and contact the Deputy Commissioner at the Special Processing Unit for the PCH.
- e) **BPH Process:** The Deputy Commissioner shall be available to conduct a PCH, in person, or by telephone with the attorney and inmate/parolee present.

At the PCH, the Deputy Commissioner will:

- 1) Conduct an ADA review prior to conducting the PCH. This includes reviewing DECS, BPT 1073, and interaction with the parolee. The DC will provide the inmate/parolee with the appropriate accommodation(s). If a needed accommodation has not been provided for the hearing, the Deputy Commissioner shall take all reasonable steps to arrange for that accommodation. The failure to provide a needed accommodation shall not constitute good cause for postponement unless the failure was beyond the control of the state. Any hearing postponed whether designated good cause or not for failure to provide an accommodation shall be rescheduled at the earliest possible date.
- 2) Determine if the BPH has jurisdiction based on the revocation release date, and controlling discharge date.
- 3) Determine if there is sufficient evidence to conclude that a reasonable person would have a strong suspicion that the inmate/parolee committed the alleged misconduct so as to constitute probable cause.
- 4) In the rare event that the parolee chooses to accept the REA without a PCH, the DC shall consult with the assigned attorney to ensure the parolee's waiver is knowing, voluntary, and intelligent. DC should be particularly aware of *Armstrong* class members with disabilities affecting their ability to understand (i.e. developmental, hearing, learning) when accepting waivers.
- 5) Determine if the conduct warrants extended incarceration based on the case factors, and if so, will offer a negotiated disposition to resolve the case.
- 6) Provide the attorney and inmate/parolee with an opportunity to present evidence to dispute the charges and/or mitigate the disposition prior to making a probable cause determination, and prior to making the offer to resolve the case. Such evidence shall be presented through documentary evidence or the

charged inmate/parolee's testimony, either or both of which may include hearsay testimony,

- 7) Document his/her decision on the appropriate form, including the reason for the determination including the evidence relied on.
- 8) Provide the inmate/parolee with a summary of the results including a copy of the BPT 1104-B(provided by the attorney,
- 9) Enter into the DEC system the accommodations, if any, provided. The Deputy Commissioner shall make the DEC entries as soon as possible but within 24 hours of completing the hearing.
- 10) If DCs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then DCs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, DCs shall notify the BPH ADA Unit of the noncompliance.

f) ***“Accept” Process:***

If the inmate/parolee, after consulting with counsel decides to accept the negotiated disposition the attorney will provide all documents, including a BPT 1104 signed by the inmate/parolee (BPT 1104, Summary of Revocation Decision: Return to Custody Assessment and the BPT 1104-B, Parolee-Attorney Decision form) to the DRU.

The DRU staff will:

- 1) Review the documents for completeness,
- 2) Fax a copy of the completed documents to the BPH Special Processing Unit at (916) 324-6966, and
- 3) Provide the Revocation Extension paperwork to the appropriate Correctional Case Records Analyst for posting and release date calculation as required through established procedures.

g) ***“Reject” Process:***

If the inmate/parolee rejects the offer at the PCH, the attorney and Deputy Commissioner shall do the following:

- 1) The inmate/parolee will sign the BPT 1104 and the attorney will fax it to the Special Processing Unit.
- 2) The attorney will assist the inmate/parolee's completion of the Request for Witnesses form (BPH 1100(b) and present it to the DC for approval of requested witnesses.

- 3) The Deputy Commissioner will allow counsel to justify the request for witnesses, and either approve or disapprove each witness providing written justification for each decision in the DC's report (refer to BPH Source document #3).
- 4) The attorney will provide the signed BPH 1104-B and BPH 1100(b) to the Revocation Extension or DRU/BRR staff for faxing to the Special Processing Unit.
- 5) The Deputy Commissioner will determine the hearing location.
- 6) After the appropriate documents are completed, the Special Processing Unit will:
- 7) Schedule a Revocation Extension hearing **no later than 35 calendar days** after discovery date. If the timeline expires during a weekend or on a holiday, this step will occur no later than the next business day after the weekend or holiday.
- 8) Complete the CDCR 1654 and advise the DRU/Board Revocation Representative staff and panel attorney of the witnesses.
- 9) Subpoena all State witnesses
- 10) Advise the attorney and DRU/Board Revocation Representative of the date of the Revocation Extension Hearing.
- 11) Schedule a Deputy Commissioner to conduct the Revocation Extension Hearing.

After the appropriate documents are completed, the Panel Attorney will:

- a) Subpoena all of the parolee's approved witnesses.

16. **REVOCATION EXTENSION HEARING**

- a) **Time line:** The Revocation Hearing will occur no later than thirty-five (35) calendar days after the discovery date. If the time line expires during a weekend or on a holiday, it will occur no later than the next business day after the weekend or holiday.
- b) **Definition:** The BPH and the Institution accomplishes this step through completion of a Revocation Extension hearing where the DC completes an ADA and effective communication review, and provides the appropriate accommodation(s), and then conducts an evidentiary hearing to determine if there is good cause to sustain the alleged misconduct. The DC documents the decision and the completed documents are sent to Case Records.

c) ***Procedure:***

BPH Process-DRU/BRR: When DAPO initiates a case that is transferred to an institution (prior to the completion of the Revocation Extension Process) with a DRU, the DRU staff will reserve a hearing room on the appropriate date. The DRU will ensure that accommodation(s) are available for the hearing. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the DRU will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. The DRU will also confirm that an interpreter will attend with the BPH two days prior to the hearing.

When DAPO initiates a case is transferred to an institution (prior to the completion of the Revocation Extension Process) where there is NO DRU, the BPH staff processing the case will contact the Revocation Extension Desk staff who will inform the C&PR, or designee, of required ADA accommodations by using the BPT 1073. The C&PR, or designee, will make the accommodation(s) available. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the C&PR, or designee, will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires the use of a sign language interpreter, the C&PR will coordinate the BPH ADACU. The BPH ADACU staff will notify the Institution's C&PR /Revocation Ext. Desk at least two days prior to the hearing, to allow the Institution to prepare gate clearances. The Revocation Extension Desk will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation were made.

When DAPO initiates a case for an inmate/parolee housed at a non-CDCR location, the Board Revocation Representative staff will reserve the hearing room on the appropriate date. The Board Revocation Representative will provide appropriate the accommodation(s) for the hearing. If the inmate/parolee requires an auxiliary aid to effectively communicate and the aid is not available, the Board Revocation Representative will contact the BPH ADA Compliance Unit (ADACU) at (916) 324-7604, to obtain the appropriate accommodation. In instances where the inmate/parolee requires use of a sign language interpreter, the BPH ADACU unit will coordinate the interpreter. In addition, the Board Revocation Representative will confirm with the BPH two days prior to the hearing that the arrangements for the accommodation have been made.

If BRRs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then BRRs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, BRRs shall notify the BPH ADA Unit of the noncompliance.

d) **BPH Process:** The BPH will schedule a Deputy Commissioner to conduct the hearing. At the hearing, the Deputy Commissioner will:

- 1) Tape record the Revocation Extension Hearing. It is the Deputy Commissioner's responsibility to ensure that they have the proper tape recording equipment, including a blank cassette tape, available at the hearing.
- 2) Conduct an ADA review prior to conducting the Revocation Hearing. This includes reviewing the DEC system, BPT 1073, and interaction with the parolee. The DC will provide any required ADA and/or effective communication accommodations during the hearing.
- 3) The Deputy Commissioner shall establish the BPH's jurisdiction based on the RRD and the CDD.
- 4) Determine, based on the evidence presented by the State and by the parolee, if a preponderance of the evidence exists to substantiate the alleged misconduct,
- 5) Prior to making a good cause determination, provide an opportunity for the inmate/parolee to present evidence through documents, witnesses, and the inmate/parolee's own testimony, all of which may include hearsay,
- 6) Determine, when good cause is found, if the conduct warrants an extended incarceration and, if so, the length of the extended incarceration,
- 7) Document the decision on the BPT 1103-REV by indicating the evidence relied on to support the finding, and if extending the incarceration, the reasons relied on to extend.
- 8) Provide the inmate/parolee with a copy of the summary of the hearing.
- 9) Enter into the DEC system the accommodations, if any, provided. The Deputy Commissioner shall make the DEC entries as soon as possible but within 24 hours of completing the hearing.
- 10) If DCs become aware an Armstrong class member on a parole hold who is housed in a county jail and is not receiving needed accommodations, then DCs shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer class members to a facility that is able to provide accommodations. If county jails fail to provide reasonable accommodations and are deemed noncompliant with CDCR requests, DCs shall notify the BPH ADA Unit of the noncompliance.
- 11) If the misconduct occurred a significant time prior to the submission of the report to the BPH, the Deputy Commissioner may choose to dismiss and reaffirm the revocation release date.

e) **Post Hearing Processing**

For Decentralized Revocation Unit (for cases originating from DAPO):

Upon completion of the Revocation Extension hearings, the Deputy Commissioner will provide the original documents from the hearing to the DRU Staff who will ensure the packet is complete and forward it to case records, north or south.

f) **Tracking**

1) **DAPO Process:**

Throughout the above process for acts of reportable misconduct originating at non-CDCR locations, the DAPO staff will track the handling of the documents and the revocation extension process in the designated tracking system.

Upon completion of the DAPO process, a report should be generated from the designated tracking system and sent to Headquarters designated *Valdivia* representative.

2) **BPH Process:**

The tracking desk will electronically track the receipt and handling of all revocation extension referrals by entering the Inmate's/Parolee's name, number, date received, date of the Notice of Rights/Charges, and, the PCH and Hearing no later than date.

17. REVOCATION EXTENSION HEARING GUIDELINES

- a) **Multiple Misconduct Charges.** Multiple misconduct charges shall be assessed consecutively to each other, and shall not exceed 12 months (time served) for all misconduct during one parole revocation period, whether submitted at the same time or separately.
- b) **Disciplinary Rule Violation Schedule.** When a Deputy Commissioner makes a finding that a prisoner has committed an act of misconduct which is ineligible for work time credits pursuant to PC 3057, or if the inmate's/parolee's active commitment case(s) are ineligible for work time credits, then the revocation extension period is also ineligible.
- c) **Assessments.** If probable cause is established on the revocation extension charge(s), the Deputy Commissioner may assess an extension of the revocation period based on the schedule listed in BPH Regulations, CCR, Title 15, Division 2, Section 2742.

XIII. CDCR GRIEVANCE PROCEDURES

Any inmate's/parolee's request for accommodation via the BPT Form 1073 may be grieved by filing a BPT Form 1074, Request for Reasonable Accommodation – Grievance Process. Any grievance requesting reasonable accommodation shall be decided at the hearing or within five working days, whichever is sooner.

Inmates/parolees with disabilities in a parole proceeding who cannot use or understand the grievance process or prepare a grievance themselves by reason of their disability shall be provided with assistance (staff, attorney, or other accommodation) in preparing a BPH grievance.

The C&PR/RC CC-III shall maintain a log of all BPT Forms 1074 received indicating name of inmate/parolee, CDCR number, date received, the grievance issue, date(s) faxed to the BPH ADA Coordinator/Associate Chief Deputy Commissioner, date(s) returned from the BPH ADA Coordinator/Associate Chief Deputy Commissioner, and the decision(s) rendered for all BPT 1074 Forms filed at an institution.

The BPH ADA Coordinator shall maintain a log of all BPT Forms 1074 received indicating name of inmate/parolee, CDCR number, date received, the grievance issue, date(s) faxed to the BPH ADA Coordinator/Associate Chief Deputy Commissioner, date(s) returned to the C&PR/RC CC III and the decision(s) rendered for all BPT Forms 1074 filed with the BPH ADA Coordinator.

A. REVOCATION AND REVOCATION EXTENSION PROCESS

There are two levels of review and disposition:

- First Level Review: BPH ADA Coordinator
- Second Level Review: Associate Chief Deputy Commissioner

1. FIRST LEVEL REVIEW: BPH ADA COORDINATOR

- a) If the inmate/parolee is not satisfied with an accommodation, the inmate/parolee may obtain a BPT Form 1074 from the institutional ADA Coordinator, BPH CCI/BRR or FUNA-DRUNA. , or if the BPH ADA Coordinator denies a prior request for reasonable accommodation, the ADA Coordinator will provide the inmate/parolee with a BPT Form 1074. The inmate/parolee shall complete Section A.
- b) If the inmate/parolee submits the BPT Form 1074 to the institutional ADA Coordinator prior to a hearing, the institutional ADA Coordinator shall ensure that the BPT Form 1074 is thoroughly completed and faxed to the BPH ADA Coordinator at (916) 324-7603. Any relevant supporting documents with the BPT Form 1073 shall also be faxed. The parolee/ inmate may also mail the form to the BPH ADA Coordinator at P.O. Box 4036, Sacramento, CA 95812-4036.
- c) If the inmate/parolee wishes to file the BPT Form 1074 after a hearing, the BPT Form 1074 Section C may be completed and submitted to a CC-I/FUNADRUNA or mailed directly to: Board of Parole Hearings, Attention: BPH ADACU, P.O. Box 4036, Sacramento, CA 95812-4036. Should an inmate/parolee give a completed BPT Form 1074 to either the CC-I/FUNA/DRUNA, that staff member shall be responsible for forwarding the completed BPT Form 1074 to the C&PR/RC CC-III or appropriate staff. The BPH ADA COORDINATOR is the appropriate staff member to provide assistance to FUNA/DRUNAS or BRRs in county facilities. If the BPT Form 1074 is filed at an institution, the staff member receiving the grievance shall immediately forward it to the C&PR/RC CC-III. The C&PR/RC CC-III shall ensure that staff assistance is provided, if necessary, to complete the BPT

Form 1074 and shall be responsible for faxing the grievance to the BPH ADA Coordinator within 24 hours of receipt. The inmate/parolee must submit the BPT Form 1074 within five days from the date the request was denied (date of BPH Due Process Review).

- d) The BPH ADA Coordinator will ensure that DECS is updated upon receipt of the BPT Form 1073, BPT Form 1074, and any other relevant documents.
- e) The BPH ADA Coordinator will review the BPH forms along with all relevant documentation (e.g., CDC Form 1845, CDC Form 128C series, etc.) if available to either verify or refute the existence of an ADA defined disability. The BPH ADA Coordinator will review the parolee's request for accommodation and determine whether the prisoner/parolee is a qualified person with a disability as defined under ADA.
- f) the request for accommodation is necessary for the inmate/parolee to overcome any barriers for effective communication and/or equal access to any parole proceeding.
- g) The BPH ADA Coordinator will document the decision to Grant, Grant with Changes, or Deny the request on Section B of the BPT Form 1074. In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee.
- h) A decision to deny a request for reasonable accommodation may be made if there is no documentation to verify the disability.
- i) The BPT Form 1074 shall be returned via fax to the C&PR/RC CC-III/RHC within five working days from date the BPH received the BPT Form 1074 for inclusion into the revocation/revocation extension packet.
- j) If the documentation indicates mobility impairment that would require an accessible facility, the BPH ADA Coordinator must ensure that the parole proceedings are held in an accessible facility.
- k) The BPH ADA Coordinator will coordinate the accommodation(s) with the C&PR/RC CC- III, CC-I, Institutional ADA Coordinator, RHC, FUNA, DRUNA, or BRR in cases where local staff cannot arrange accommodations.
- l) The C&PR/RC CC-III/RHC will ensure that the BPT Form 1074 is delivered to the inmate/parolee via institutional mail/regular mail. However, if the inmate/parolee has been identified with a specific need for assistance with effective communication, the CC-I will be required to deliver and effectively communicate the BPH ADA Coordinator's decision to the inmate/parolee.
- m) If the inmate/parolee is not satisfied with the BPH ADA Coordinator's decision, the inmate/parolee may seek review of that decision by completing Section C of the BPT Form 1074 and submitting it to a BPH Associate Chief

Deputy Commissioner for the second level review and disposition. The BPT Form 1074 may be submitted to a CC-I/FUNA/DRUNA/BRR or mailed directly to: Board of Prison Terms, Attention: BPH ADACU, P.O. Box 4036, Sacramento, CA 95812-4036.

2. SECOND LEVEL REVIEW: ASSOCIATE CHIEF DEPUTY COMMISSIONER

- a) Upon receipt of the BPT Form 1074 and any supporting documents, if necessary, the Associate Chief Deputy Commissioner will ensure that the information from the BPT Form 1074 is entered into the DECS for tracking purposes.
- b) The Associate Chief Deputy Commissioner may deny, without review, any grievance received less than five days prior to the hearing.
- c) The Associate Chief Deputy Commissioner will review all pertinent documents and document his/her decision in Section D of the BPT Form 1074 prior to the hearing.
- d) The BPT Form 1074 shall be returned via fax to the C&PR/RC CC-III/RHC within five working days from date the BPH received the BPT Form 1074, or the date of the parole proceedings, whichever comes first.) The C&PR/RC CC-III/RHC will coordinate providing the approved accommodation with the BPH ADA Coordinator, if applicable.
- e) The C&PR/RC CC-III/RHC will ensure that the BPH Associate Chief Deputy Commissioner's decision is delivered and effectively communicated to all inmates/parolees identified with a specific need for assistance with effective communication, and inform the inmate/parolee that the grievance process via the BPT Form 1074 has been exhausted.

B. LIFE INMATE, MDO, AND SVP PAROLE PROCEEDINGS

The decision to grant or deny an inmate's request for a reasonable accommodation via the BPT Form 1073 will be rendered by the BPH ADA Coordinator. For this reason, if an inmate wishes to file a grievance, the grievance will bypass the first level of review.

1. SECOND LEVEL REVIEW: ASSOCIATE CHIEF DEPUTY COMMISSIONER

- a) The CC-I (or MDO/SVP Coordinator in MDO/SVP process) will provide the BPT Form 1073 to the inmate using effective communication, at the beginning of the Service of Rights and notice of a hearing, and explain the grievance process via the BPT Form 1074. The inmate will be given the opportunity to request a reasonable accommodation. The C&PR/RC CC-III shall fax the BPT Form 1073 requesting an accommodation along with supporting documents to the BPH ADA Coordinator at (916) 324-7603.

- b) Upon receipt of the BPT Form 1073 along with supporting documents, the BPH ADA Coordinator will review and document the decision to Grant, Grant with Changes, or Deny the request on a BPT Form 1073. The completed BPT Form 1073 and relevant documents shall be returned to the C&PR/RC CC-III for action within five working days from date the BPT Form 1073 was received.
- c) The C&PR/RC CC-III will ensure that the BPT Form 1073 is delivered to the inmate via institutional mail. However, if the inmate has been identified with a specific need for assistance with effective communication, the C&PR/RC CC-III will provide the BPT Form 1073 to the CC-I (or MDO/SVP Coordinator in the MDO/SVP process) who will effectively communicate and deliver the BPH ADA Coordinator's decision to the inmate/parolee.
- d) If the inmate is not satisfied with the BPH ADA Coordinator's decision, the CC-I (or MDO/SVP Coordinator) will provide the inmate with a BPT Form 1074 with Sections A and B marked "bypassed." The inmate shall complete Section C of the BPT Form 1074. The CC-I (or MDO/SVP Coordinator) shall immediately forward the BPT Form 1074 to the C&PR/RC CC-III. The C&PR/RC CC-III shall be responsible for faxing the grievance to the BPH ADA Associate Chief Deputy Commissioner within 24 hours of receipt.
- e) Upon receipt of the BPT Form 1074 and any relevant supporting documents, the Associate Chief Deputy Commissioner will ensure that the information from the BPT Form 1074 is entered into the DECS for tracking purposes.
- f) The Associate Chief Deputy Commissioner will review DECS and all pertinent documents then complete Section D of the BPT Form 1074 and fax it to the C&PR/RC CC-III within five working days from date the BPH received the BPT Form 1074, or the date of the parole proceedings, whichever comes first.
- g) The C&PR/RC CC-III will coordinate with the BPH ADA Coordinator in providing the approved accommodation, if applicable.
- h) The BPH ADA Coordinator will ensure that the BPT Form 1074 is delivered to the inmate via institutional mail. However, if the inmate has been identified with a specific need for assistance with effective communication, the C&PR/RC CC-III will provide a copy of the BPT Form 1074 to the CC-I or MDO/SVP Coordinator who will effectively communicate and deliver the BPH Associate Chief Deputy Commissioner's decision to the inmate. The C&PR shall ensure that a copy of the BPT Form 1074 is provided to the DC for the life prisoner hearing. For MDO and SVP hearings, the C&PR/RC CC-III shall ensure the BPH Form is provided with the BPH hearing documents.

XIV. APPEALS PROCEDURES

Effective May 1, 2004, the Board of Prison Terms Appeals section (15 CCR sections 2050-2056) was repealed by Administrative Directive No. 04/01. The Board of Prison Terms (now the Board of Parole Hearings) no longer has an Appeals Unit; therefore, the decisions or actions regarding the issues listed below **cannot be appealed** and will no longer be addressed by the Board, regardless of whether the issues are written on a BPT 1040, a CDC 602, or in letter format:

- Due process (including hearing scheduling)
- Parole revocation process (including hearing panel issues)
- Early discharge requests (prior to discharge review)
- Good cause findings for hearings
- CDCR clerical errors regarding date/time/credit calculations/day for day
- CDCR/DAPO staff-related issues
- Appeals submitted prior to a Board action
- Attorney issues
- Witness issues
- Time assessed at the revocation hearings

An inmate/parolee may appeal directly to the courts per CCR 15 Section 3160. Forms are available at the institutions law libraries. If the inmate/parolee is being housed at a county jail, he/she can obtain a copy of the forms at the jail's housing unit.

Issues concerning clerical errors on BPT Forms 1103 and 1104 related to Board decisions, mandatory discharge, credit eligibility during revocation terms, BPH mandated special conditions of parole, retain on parole actions, and other rules of law, can be reviewed by the Board. Inmates/parolees can submit these concerns via correspondence to the Board of Parole Hearings, Quality Control Unit, P. O. Box 4036, Sacramento, California, 95812-4036.

A. DISABILITY-RELATED APPEALS

All administrative appeals alleging violations of the ADA or its implementing regulations shall be treated as ADA grievances (refer to Section XIII, for grievance procedures to be used if a grievance is filed prior to a parole proceeding), and any successive appeal on the non-ADA merits of a decision shall not be deemed barred due to the filing of the ADA-related grievance or grievances.

1. All ADA-related appeals filed following a parole proceeding are to be decided within 30 days of the BPH's receipt of the appeal form:
 - a) The appeal shall be submitted using the BPT Form 1074.
2. Inmates and parolees with disabilities who cannot use or understand the appeal process or prepare an appeal themselves by reason of their disability shall be

provided with effective assistance (staff, attorney, or other accommodation) in preparing a BPH appeal.

3. If an inmate/parolee files an ADA issue on a BPH form and the issue is not under the jurisdiction of the BPH, the BPH is to forward the appeal to the appropriate institution or parole region. The Appeals Coordinator will ensure the appeal is attached to the proper form. The appeal shall then be answered accordingly in a timely manner. Under no circumstances shall an ADA appeal be returned to an inmate/parolee because it is not on the correct form.

XV. COUNTY JAIL ACCOMMODATIONS PROCESS

A. DAPO Responsibilities

Informing Parolee of Grievance Availability

The FUNA/DRUNA currently reviews the Disability and Effective Communication System (DECS), available BPT 1073s and source documents as part of the Valdivia serve process. Within three business days of a PC 3056 hold, the FUNA/DRUNA is required to serve the parolee with their Notice of Rights/Notice of Charges.

The FUNA/DRUNA will use this same face-to-face meeting that occurs for the NOR/NOC serve process to ensure the parolee is aware that the county jail has a grievance process.

Initial Notification to County Jail Staff of Parolee's Accommodation Needs

If the prisoner requests an accommodation, or if the FUNA/DRUNA identifies a need based on observations during the serve process, the FUNA/DRUNA will notify the county jail staff member supervising the parolee in the location where the serve process is conducted. Notification should occur prior to the FUNA/DRUNA departing the county jail facility, but no later than two-business days after completing serve process.

The FUNA/DRUNA will note in Section III of the BPT 1073, and enter into DECS:

- Accommodation requested by parolee/or based on observations by FUNA/DRUNA during serve process.
- Name (Last Name, First Initial) of County Jail Staff reported information to and any response provided by County Jail Staff.
- Time of notification

FUNA/DRUNA Reporting of Non-Compliance

If a FUNA/DRUNA becomes aware of a "pattern" of non-compliance at a County Jail, they will report the issue to their Supervising Notice Agent immediately. The SNA will be responsible for notifying the DAPO Parole Litigation Compliance Unit

(PLCU), Parole Administrator, or designee, within one-business day of receipt of information.

The PLCU Parole Administrator will be responsible for initiating telephonic case conference with the Board of Parole Hearings, Office of Legal Affairs and the California Standards Authority to determine if incident warrants immediate transfer of parolee, telephonic notification to Jail Commander, or meeting with county jail management.

The PLCU will be responsible for tracking complaints received by FUNA/DRUNAs for the purposes of identifying patterns of non-compliance at county jails. If PLCU identifies a pattern, they will notify OCC, CSA, and administrators of the county jail.

B. BPH Responsibilities

If BPH staff becomes aware of an Armstrong class member on a parole hold who is housed in a county jail and not receiving needed accommodations, that staff shall immediately take steps with county jail staff to ensure that necessary and reasonable accommodations are provided or make arrangements to transfer the Armstrong class member to a facility that is able to provide accommodations

If the county jail fails to provide accommodations and is deemed noncompliance, the BPH staff shall notify the BPH Quality Control Unit. The Quality Control Unit will be responsible for tracking complaints in order to identify patterns of non-compliance. If a pattern is identified, the Quality Control Unit will notify the OACC.

C. CDCR Responsibilities

County Jail Inability to Accommodate Parolee

If either the DAPO or BPH become aware of a parolee with an accommodation that cannot be accommodated by the County Jail facility, they will take steps to promptly transfer the class member to a facility that is able to provide the accommodations.

Identifying or Investigating a Pattern of Non-Compliance

If a pattern of non-compliance is identified at any county jail facility, the CDCR will request a meeting with the following units/divisions to collaboratively address patterns of non-compliance at a county jail and to determine if the conduct warrants the assignment of CDCR staff to conduct an investigation.

- Office of Audits and Court Compliance (OACC)
- Board of Parole Hearings (BPH)
- Division of Adult Parole Operations (DAPO)
- Corrections Standards Authority (CSA)

CDCR will notify the county jail administration, including specific points of contact identified by CSA, of any requests by CDCR for (1) the county jail to conduct a local

inquiry, (2) request for CDCR to conduct an investigation, or (3) a meeting between CDCR and the county jail administration to discuss any issues of concern as it relates to noncompliance with the Court's orders and any related courses of action.

CDCR will be responsible for providing required documentation to Plaintiff's counsel.

Correctional Standards Authority Biennial Inspection Reports

The CSA conducts biennial inspections of county jails and produces a public report on its findings. CDCR will review these reports for any indication of problems that the CSA has uncovered as part of its monitoring of this matter.

XVI. TRAINING

CDCR divisions will provide regular training to its respective staff on an annual basis. DAPO and BPH will provide updated information to its staff in accordance with normal methods. This training shall include all relevant sections of the Remedial Plan.

GLOSSARY

ACDC	Associate Chief Deputy Commissioner
ADA	Americans with Disabilities Act
ADACU	Americans with Disabilities Act Compliance Unit
AOR	Agent of Record
ASH	Atascadero State Hospital
BPH	Board of Prison Hearings
BPT	Board of Prison Terms
BRR	Board Revocation Representative
CALPAP	California Parole Advocate Program
C&PR	Classification and Parole Representative
CCCMS	Correctional Clinical Case Management System
CC-I	Correctional Counselor I
CCRM	Correctional Case Records Manager
CCT	Court Compliance Team
CDCR	California Department of Corrections and Rehabilitation
CLETS	California Law Enforcement Telecommunications System
COP	Continue On Parole
C-File	Central File
CRN	Case Records North
CRS	Case Records South
DAPO	Division of Adult Parole and Operations
DC	Deputy Commissioner
DDP	Developmental Disability Program
DAI	Division of Adult Institutions
DCHCS	Division of Correctional Health Care Services
DMH	Department of Mental Health

DOP	Difference of Opinion
DRU	Decentralized Revocation Unit
DRUNA	Decentralized Revocation Unit Notice Agent
DPP	Disability Placement Program
EID	Electronic Monitoring
EOP	Enhanced Outpatient Program
FUNA	Field Unit Notice Agent
GPL	Grade Point Level
DCHSD	Division of Correctional Health Care Services
MDO	Mentally Disordered Offender
MHCB	Mental Health Crisis Bed
MHSDS	Mental Health Services Delivery System
NIC	Not in Custody
PC	Penal Code
PSH	Patton State Hospital
PV-RTC	Parole Violator Return to Custody
RC	Reception Center
RC CC-III	Reception Center Correctional Counselor III
RHC	Regional Hearing Coordinator
RSTS	Revocation Scheduling and Tracking System
RU	Revocation Unit
RVR	Rules Violation Report
SVP	Sexually Violent Predator
TABE	Test of Adult Basic Education
TDD	Telecommunications Device for the Deaf
US	Unit Supervisor