

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underline indicates added or amended text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Table of Contents

Subchapter 4, Article 10,

Subsection Titles 3375.3 through 3375.5 are amended to read:

3375.3. CDCR Initial Classification Score ~~Sheet~~, ~~CDCR Form 839~~, Calculation

3375.4. ~~CDCR~~ Reclassification Score ~~Sheet~~, ~~CDCR Form 840~~, Calculation.

3375.5. ~~CDCR~~ Readmission Score ~~Sheet~~, ~~CDCR Form 841~~, Calculation.

Chapter 1,

Article 1,

3000 Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those that exist in the regulations.

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Electronic Records Management Systems (ERMS) is a document management system operating within the Strategic Offender Management System (SOMS) that provides a digitally scanned and uploaded central records repository.

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Note: Authority cited: Sections 2717.3, 3000.03, 5058 and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Section 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; and Madrid v. Cate (U.S.D.C. N.D. Cal. C90-3094 TEH).

**Chapter 1,
Article 3.5
3043. Credit Earning.**

Section 3043 through subsection 3043(c)(7) remain unchanged; however, subsection 3043(c)(7) is shown for reference.

(c) Milestone completion credits.

(7) Program milestones earned in excess of six weeks within a twelve-month period shall be applied at the beginning of the next twelve-month period of continuous incarceration.

Subsections 3043(c)(7)(A) through 3043(c)(7)(C) are amended to read:

(A) For the purposes of this section, the 12-month period shall begin on the date when the first milestone completion credits are completed, ~~and verified by the Inmate Assignment Lieutenant.~~ Designated staff members are responsible for entering milestone completion credits into the Strategic Offender Management System (SOMS) and submitting to the Education Supervisor for approval. For ACP Participants, the 12-month period shall begin on the date when the first milestone completion credits are completed and verified by the ACP Program Manager or designee.

(B) Within 3 business days of completion of an approved performance milestone, the approved program instructor will ~~certify~~ enter completion of a milestone ~~via a CDC Form 128 B (Rev. 4/74), General Chrono and forward the document to the Inmate Assignment Office into SOMS.~~ ACP Participants shall notify the ACP Case Manager or designee of completion of an approved performance milestone in writing and provide documentation of completion, along with the program's contact information. The ACP Case Manager or designee will verify completion of the performance milestone and, upon verification, notify the ACP Program Manager of completion of a performance milestone within 3 business days via a CDCR Form 1502 Activity Report (Rev. 10/06).

(C) Upon ~~receipt of General Chrono notification of milestone completion,~~ within 3 business days, the ~~inmate assignment lieutenant or custody staff member not less than the rank of lieutenant,~~ supervisor or the ACP Program Manager or designee, will verify the inmate's eligibility for milestone completion credits and ~~complete a CDC Form 128 G (Rev. 10/89), Classification Chrono and forward to Case Records~~ approve the entry in SOMS.

Subsections 3043(c)(8) through 3043(c)(11) remain unchanged.

Note: Authority cited: Sections 2700, 5058, 5058.3 and 1170.05, Penal Code. Reference: Sections 1170.05, 2931, 2933, 2933.05, 2935, 5054, 6260, 11189 and 11190, Penal Code; Section 3201, Welfare and Institutions Code; In re Monigold , 205 Cal. App. 3d 1224, and People v. Jones , 44 Cal.Rptr.2d 164 (Cal. 1995).

**Subchapter 4,
Article 6.5
3334. Behavior Management Unit**

Subsections 3334(a) through 3334(c)(5) remain unchanged.

Subsection 3334(c)(6) is amended to read:

(6) The Classification Committee shall be responsible for providing the inmate with notification of the rules and intent of the BMU program. The ~~CDC 128 G, Classification Committee Chrono (Rev. 10/89),~~ shall clearly state that the inmate was informed of the reason for placement, the length of placement, and any additional action the inmate must take to successfully complete the BMU program.

Subsections 3334(d) through 3334(k) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code.

**Subchapter 4,
Article 7**

3336. Segregation Order.

Subsection 3336 opening statement remains unchanged but shown for reference.

Authority to order an inmate to be placed in administrative segregation, before such action is considered and ordered by a classification hearing, may not be delegated below the staff level of correctional lieutenant except when a lower level staff member is the highest ranking official on duty.

Subsections 3336(a) through 3336(d) are amended to read:

(a) The reason for ordering an inmate's placement in administrative segregation will be clearly documented on a ~~CDC Form 114-D (Order and Hearing on Segregated Housing)~~ an Administrative Segregation Placement Notice by the official ordering the action at the time the action is taken. Reasons for placement include:

(1) Presents an immediate threat to the safety of self or others.

(2) Jeopardizes integrity of an investigation of alleged serious misconduct or criminal activity.

(3) Endangers institutional security.

(4) Upon release from segregation, no bed is available in the general population.

(b) In addition to explaining the reason and need for an inmate's placement in administrative segregation, the official ordering the action will determine if a staff member needs to be assigned to assist the inmate in presenting the inmate's position at a classification hearing on the need for retention in segregated housing. Staff assistance will be assigned and the assignment will be noted on the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice if the inmate is illiterate or if the complexities of the issues make it unlikely that the inmate can collect and present evidence necessary for an adequate comprehension of the inmate's position at a classification hearing. If an inmate is not illiterate and the issues are not complex, staff assistance will not be assigned. The reason for not assigning staff assistance will be entered on the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice.

(c) In assigning staff assistance, the official initiating the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice will designate the inmate's caseworker by name, as the staff member to assist the inmate. If the assigned caseworker's name is not known or cannot be readily determined by the official initiating the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice, the words "assigned caseworker" will be entered on the form.

(d) A copy of the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice, with the "order" portion of the form completed, will if practical, be given to the inmate prior to placement in administrative segregation but not later than 48 hours after such placement. Copies of the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice with the "order" portion completed will also be submitted to the warden or superintendent or designated staff for review and possible further action as described in section 3337. A copy of the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice will also be routed to the records office as a notice of the inmate's current status and pending actions.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, penal Code.

3337. Review of Segregation Order

Section 3337 through subsection 3337(a) is amended to read:

On the first work day following an inmate's placement in administrative segregation, designated staff at not less than the level of correctional captain will review the order portion of the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice. If retention in administrative segregation is approved at this review, the following determinations will be made at this level:

(a) Determine the appropriate assignment of staff assistance, if such assistance was deemed necessary by the official initiating the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice. If the inmate's caseworker is not an appropriate assignment because of the caseworker's schedule, an alternate staff assistance assignment will be made. The inmate will be notified in writing of any change in the assignment of staff assistance. An inmate may decline to accept the assignment of his or her caseworker or the first person assigned. In such cases a different staff member will be assigned to assist the inmate.

Subsection 3337(b) remains unchanged but is shown for reference

(b) Determine the inmate's desire to call witnesses or submit other documentary evidence. If the inmate requests the presence of witnesses or submission of documentary evidence at a classification hearing on the reason or need for retention in segregated housing, an investigative employee will be assigned to the case. A request to call witnesses and the names of witnesses must be submitted in writing by the inmate.

(c) Determine if the inmate has waived the 72-hour time limit in which a classification hearing cannot be held, as indicated on the ~~CDC Form 114-D~~ Administrative Segregation Placement Notice, or if the inmate desires additional time to prepare for a classification hearing. A request and the reason for needing additional time to prepare for a hearing must be submitted in writing by the inmate. In the absence of an inmate's waiver of the 72-hour preparation period or an approved request for additional preparation time, a classification hearing cannot be held earlier than 72 hours after the inmate's placement in segregated housing, but will be held as soon thereafter as it is practical to do so.

Subsection 3337(d) remains unchanged but is shown for reference

(d) Determine the most appropriate date and time for a classification hearing based upon the determination arrived at under (a)(b) and (c) and the time limitations prescribed in section 3338.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3338. Hearing on Segregated Housing Order

Subsections 3338(a) through 3338(e) are amended to read:

(a) A classification hearing for consideration and determination of the need to retain an inmate in segregated housing, for the reasons set forth in ~~an segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, will be held as soon as it is practical and possible to do so, but in no case longer than 10 days from the date the inmate was initially placed in segregated housing, except for the following reasons:

(1) The ~~segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, has been withdrawn and the inmate has been returned to general population status pursuant to Section 3339.

(2) The inmate has been afforded the procedural safeguards of a disciplinary hearing for a serious rule violation and the case has been referred to a classification committee for review, as provided in Section 3315(g). In such cases the classification committee may rely upon the findings of the disciplinary hearing in determining the inmate's need for segregated housing and in ordering such placement. A separate order and hearing on segregated housing is not required in such cases.

(3) The inmate is retained in segregated housing for any Administrative reasons or purposes after acquittal or dismissal of disciplinary charges for which the inmate was segregated pending a disciplinary hearing. In such cases, a segregated housing order shall be initiated and a hearing shall be held on the order within the time limits and under the procedural safeguards set forth in Section 3339(b).

(4) A continuing state of emergency exists within the institution, as described in Section 3383. Under such circumstances the hearing will be held as soon as it is safe and practical to do so.

(b) The hearing on an ~~administrative segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, may be conducted by a single classification hearing officer (facility captain, correctional captain, correctional counselor III, or experienced correctional lieutenant, or correctional counselor II.) This does not preclude the use of classification committees or subcommittees of classification for such hearings if such committee hearings can be scheduled and conducted within the time constraints required for such hearings. This option is left to the discretion of each warden and superintendent.

(c) The inmate will be present at the initial hearing on an administrative segregation order except under the applicable conditions as described in section 3320 (g) of the Secretary's rules relating to disciplinary hearings. If the hearing is held without the inmate present, the reason will be documented on the segregation order form. Any staff member assigned to assist the inmate will also be present at the hearing.

(d) The primary purpose of the initial hearing on an ~~administrative segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, is to determine the need for continued retention in administrative segregation pending criminal prosecution, disciplinary proceedings, the resolution of nondisciplinary issues or considerations, and reclassification by the institution's main classification committee for assignment to a specialized security housing unit, or an action on the main classification committee's recommendation for transfer to an institution with appropriate specialized security housing units.

(e) When the reason for an inmate's initial placement in administrative segregation is a disciplinary matter and likely to result in a formal report of violation of institution rules on a CDC Form 115, or a referral to the district attorney for possible criminal prosecution, the hearing will assume the alleged misconduct or criminal activities to be factual as reported in the segregation order. The hearing will not consider evidence or information relating to the guilt or innocence of the inmate. The only determination to be made is whether the inmate needs to be retained in administrative segregation for the reasons given in subsection 3335 (a) and in the ~~segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, pending resolution or disposition of disciplinary issues. If the hearing decision is to retain the inmate in administrative segregation, the case will be referred to the next scheduled meeting of the institution's main classification committee for review. The main classification committee may review the case in absentia and continue the inmate in administrative segregation pending resolution of the disciplinary issues, or schedule the inmate for a personal appearance to consider placement in a specialized security unit based upon other nondisciplinary reasons necessitating such placement.

Subsections 3338(f) and 3338(g) remain unchanged.

Subsection 3338(h) through 3338(i) are amended to read:

(h) Based upon the finding of the investigative employee, the initial hearing or the main classification committee will permit the inmate to present witnesses and documentary evidence at the hearing unless the initial hearing officer or the chairperson of the committee determines in good faith that permitting such evidence will be unduly hazardous to the institution safety or correctional goals. The reason for disallowing witnesses or evidence will be documented in the "hearing" portion of the ~~segregation order, CDC Form 114-D~~ Administrative Segregation Placement Notice, and in the classification committee's report (~~CDC Form 128-G~~).

(Classification Committee Chrono) depending upon the hearing at which the presentation of such evidence or witnesses would have otherwise been presented.

(i) The determinations arrived at in the classification hearing will be documented in the hearing portion of the ~~segregation order, CDC Form 114-D Administrative Segregation Placement Notice~~, and in the classification committee report, ~~CDC Form 128-G Classification Committee Chrono~~, depending upon the hearing at which the need for segregated housing is resolved. Such documentation will include an explanation of the reason and the information and evidence relied upon for the action taken. A copy of the completed ~~CDC Form 114-D Administrative Segregation Placement Notice~~ and any ~~CDC Form 128-G Classification Committee Chrono~~ resulting from hearings will be routed to the inmate's central file. The inmate will also be given copies of all completed forms and of all other documents relied upon in the hearing except those containing confidential information.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Wright v. Enomoto*, 462 F Supp 397 (1976).

3339. Release from Administrative Segregation and Retention in Administrative Segregation

Subsection 3339(a) remains unchanged.

Subsection 3339(b)(1) is amended to read:

(b) Retention: Subsections (b)(1)-(b)(5) set forth procedural safeguards. These procedural safeguards apply to inmates retained for administrative reasons after the expiration of a definite term or terms of confinement for disciplinary reasons. Definite terms of confinement shall be set or reduced by classification or administrative action.

(1) ~~An segregated housing order, CDC Form 114-D Administrative Segregation Placement Notice~~, shall be initiated, giving written notice of the reasons for such retention in sufficient detail to enable the inmate to prepare a response or defense. Except in case of a genuine emergency, a copy of the order shall be given to the inmate prior to the expiration of the determinate term or terms of confinement. In no case shall notice be given later than 48 hours after the expiration of the determinate term or terms.

Subsections 3339(b)(2) through 3339(b)(4) remain unchanged.

Subsection 3339(b)(5) is amended to read:

(5) A copy of the completed ~~segregated housing order~~ Administrative Segregation Placement Notice containing a written decision, including references to the evidence relied upon and the reasons for retention in segregated housing beyond the expiration of the expired term of confinement, if so retained, shall be given the inmate upon completion of the hearing.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Taylor v. Rushen* (N.D. Cal.) L-80-0139 SAW.

3341.5. Segregated Program Housing Units

Notice to Printer: Delete the pictures of the CDC Forms 629-A (Rev 3/96), SHU Term Assessment Worksheet, and CDC 629-B (9/90), Assessment of Subsequent or Reimposed SHU Term Worksheet

Section 3341.5 through 3341.5(a)(4) remain unchanged but are shown for reference.

Special housing units are designated for extended term programming of inmates not suited for general population. Placement into and release from these units requires approval by a classification staff representative (CSR).

(a) Protective Housing Unit (PHU). An inmate whose safety would be endangered by general population placement may be placed in the PHU providing the following criteria are met:

- (1) The inmate does not require specialized housing for reasons other than protection.
- (2) The inmate does not have a serious psychiatric or medical condition requiring prompt access to hospital care.
- (3) The inmate is not documented as an affiliate of a STG-I.
- (4) The inmate does not pose a threat to the safety or security of other inmates in the PHU.

Subsection 3341.5(a)(5) is amended to read:

(5) The inmate has specific, verified enemies identified ~~on CDC Form 812~~ within the Non-Confidential Offender Separation Alerts Section likely to and capable of causing the inmate great bodily harm if placed in general population.

Subsections 3341.5(a)(6) through 3341.5(c)(2)(A)(4) remain unchanged.

Subsection 3341.5(c)(2)(B) through 3341.5(c)(2)(B)(4) are amended to read:

(c) Security Housing Unit (SHU). An inmate whose conduct endangers the safety of others or the security of the institution shall be housed in a SHU.

(2) Length of SHU Confinement.

(B) Determinate SHU Segregation.

1. A determinate period of confinement in SHU may be established for an inmate found guilty of a serious offense listed in section 3315 of these regulations. The term shall be established by the Institutional Classification Committee (ICC) using the standards in this section, including the SHU Term Assessment Chart (see section 3341.5(c)(9)), Factors in Mitigation or Aggravation (see section 3341.5(c)(10)), ~~SHU Term Assessment Worksheet CDC Form 629 A, Rev. 3/96, Assessment of Subsequent SHU Term Worksheet CDC Form 629 B, Rev. 9/90 SHU Term Computation screen in SOMS,~~ and SHU Time Computation Table (see CDC Form 629-D, Rev. 7/8811/14).

2. The term shall be set at the expected term for the offense in the absence of mitigating or aggravating factors. Deviation from the expected term shall be supported by findings pursuant to subsection (c)(7).

3. The terms shall be recorded on ~~CDC Form 629 A,~~ the SHU Term Assessment Worksheet in SOMS, using the SHU Time Computation Table which incorporates one-fourth clean conduct credit in the term. The computation shall establish a maximum release date and a minimum eligible release date (MERD). A copy of the ~~CDC Form 629 A~~ SHU Term Assessment Worksheet in SOMS shall be printed and given to the inmate.

4. Serious misconduct while in SHU may result in loss of clean conduct credits or an additional determinate term for an inmate serving a determinate term. Such additional term may be concurrent or consecutive and shall be recorded on ~~CDC Form 629 B~~ the SHU Term Assessment Worksheet in SOMS with a copy given to the inmate. Such cases shall be referred to a CSR for approval; however, all release and retention requirements of section 3339 shall remain in effect pending CSR approval.

Subsections 3341.5(c)(2)(B)(5) through 3341.5(c)(2)(B)(10) remain unchanged.

Subsection 3341.5(c)(2)(C) is amended to read:

(C) Anytime a SHU term is reimposed, ICC shall record the basis of their decision in the ~~CDC Form 128-G, Classification Chrono (Rev. 10/89), which is incorporated by reference,~~ Classification Committee Chrono clearly articulating the inmate's continued threat to the safety of others or the security of the institution.

3341.5 (c)(3) through 3341.5(c)(9) are unchanged.

Subsection 3341.5(c)(10) is amended to read:

(10) Factors in mitigation or aggravation of SHU term. The SHU term shall be set at the expected range unless a classification committee finds factors exist which warrant the imposition of a lesser or greater period of confinement. The total period of confinement assessed shall be no less than nor greater than the lowest or highest months listed for the offense in the SHU Term Assessment Chart. In setting the term, the committee shall determine the base offense. If the term being assessed includes multiple offenses, the offense which provides for the longest period of confinement shall be the base offense. Lesser offenses may be used to increase the period beyond expected term. After determining the base offense, the committee shall review the circumstances of the disciplinary offense and the inmate's institutional behavior history using the factors below. The committee shall then determine that either no unusual factors exist or find that specific aggravating or mitigating factors do exist and specify a greater or lesser term. The reasons for deviation from the expected term shall be documented on a ~~CDC 128-G~~, Classification Committee Chrono, and SHU Term Assessment Worksheet, a copy of which shall be provided to the inmate.

Subsections 3341.5(c)(10)(A) through 3341.5(c)(11)(C) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al., (N.D. Cal., No. C94-2847).

Notice to Printer:

CDC Form 629-D (Rev 7/88) SHU Time Computation Schedule has been amended.

Subchapter 4,

Article 8

3359.2. Medical Parole Processing.

Subsections 3359.2(a) through 3359.2(d)(14) remains unchanged

Subsection 3359.2(d)(15) is amended to read:

15) Most recent ~~CDC Form 128-G (Rev. 10/89)~~, Classification Committee Chrono, with the inmate's full case factors.

Subsection 3359.2(e) through 3359.2(i) remains unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3550 and 5054, Penal Code.

Subchapter 4,

Article 10

3375. Classification Process

Subsections 3375(a) through 3375(f)(7) remain unchanged.

Subsection 3375(g) is amended to read:

(g) Every decision of a classification committee shall be documented on a ~~CDC Form 128-G~~, Classification Committee Chrono. The Security Threat Group Unit Classification Committee shall be documented on a CDCR Form 128-G1 (11/13), Security Threat Group Unit Classification Committee - Results of Hearing, which is incorporated by reference.

(1) Each classification committee's documentation shall include, but not be limited to the following:

(F) If during the committee discussion, a member of the committee disagrees with a decision or the basis for a decision reached by the committee, he or she may provide language to the recorder to document his or her opinion for inclusion in the ~~CDC Form 128-G~~ Classification Committee Chrono.

Subsections 3375(g)(1)(G) through 3375(i) remain unchanged.

Subsections 3375(j) through 3375(k)(1) are amended to read:

(j) A ~~n CDCR Form 839, (Rev. 07/12), CDCR Initial Classification Score Sheet~~, shall be prepared pursuant to section 3375.3 on each newly received felon.

(1) In completing the ~~CDCR Form 839~~ Initial Classification Score Sheet, all relevant documents available during the reception center process shall be reviewed. The inmate shall be interviewed, informed of the purpose of the form, and allowed to contest specific item scores and other case factors on the form. Factors for which documentation is absent or conflicting shall be discussed during the interview.

(2) The inmate is responsible for providing documentation to support their challenge of any information on the ~~CDCR Form 839~~ Initial Classification Score Sheet.

(3) An effort shall be made to obtain verifiable documentation of all items on the ~~CDCR Form 839~~ Initial Classification Score Sheet. The probation officer's report (POR) shall be the document of choice to resolve any conflicting information received. Credit shall be given only upon verifiable documentation and shall not be given based solely on an inmate's statements.

(4) A corrected ~~CDCR Form 839~~ Initial Classification Score Sheet shall be initiated when the inmate or another party presents verifiable documentation to support the change. When the change results in a placement score which falls into the range for a different facility security level, the inmate's case shall be referred to a CSR for transfer consideration.

(k) A ~~CDCR Form 840 (Rev. 07/12), CDCR Reclassification Score Sheet~~ shall be prepared pursuant to section 3375.4 as part of the regular, continuous classification process. If an inmate's recalculated placement score is not consistent with the institution/facility security level where the inmate is housed, the case shall be presented to a CSR for transfer consideration.

(1) A ~~CDCR Form 840~~ Reclassification Scoresheet shall be completed.

Subsections 3375(k)(1)(A) through 3375(k)(1)(C) remain unchanged.

Subsection 3375(k)(2) is amended to read:

(2) A ~~CDCR Form 841 (Rev. 07/12), CDCR Readmission Score Sheet~~, shall be completed pursuant to section 3375.5 as part of the readmission process when a parolee is returned to prison.

Subsection 3375(l) is unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1203.8, 3020, 5054, 5068 and 11191, Penal Code; Section 8550 and 8567, Government Code; and Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Wright v. Enomoto* (1976) 462 F.Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).

3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(b)(7) remain unchanged.

Subsection 3375.2(b)(8) through 3375.2(b)(32) are adopted, renumbered, and amended to read:

(b) The following three-letter codes are used to indicate those administrative or irregular placement conditions known as administrative determinants, which may be imposed by Departmental officials to override the placement of an inmate at a facility according to his/her placement score.

(1) AGE. Inmate's youthfulness, immaturity or advanced age.

(2) ARS. Current conviction, prior conviction, or a sustained juvenile adjudication, as defined in subdivision (b)(26)(A), for arson.

(3) BEH. Inmate's record of behavior indicates they are capable of successful placement at a facility with a security level lower than that which is consistent with his/her placement score. This factor shall not be used for an inmate who is currently housed at a facility with a security level higher than that which is consistent with his/her placement score.

(4) CAM. Placement is recommended due to a shortage of camp qualified inmates.

(5) DEA. Inmate was formerly or is currently sentenced to death.

(6) DEP. Special placement ordered by the Departmental Review Board.

(7) DIS. Inmate's disciplinary record indicates a history of serious problems or threatens the security of the facility.

(8) ENE. Inmate has one or more enemies under the Department's jurisdiction which have been documented ~~on a CDC Form 812 (Rev. 8/01), Notice of Critical Case Information - Safety of Persons within SOMS Non-Confidential Offender Separation Alerts or on a CDC Form 812-C (Rev. 8/01), Notice of Critical Information - Confidential Enemies~~ SOMS Confidential Offender Separation Alerts pursuant to section 3378. This should also be used when it is probable that the inmate may be victimized due to case factors; e.g., the nature of their offense is likely to create an enemy situation at certain facilities, current Protective Housing Unit case, and those who are natural victims because of their appearance.

(9) ESC. Unusual circumstances suggest the inmate is a much greater escape risk than indicated by his/her placement score; e.g., the inmate verbalized an intent to escape.

(10) FAM. Inmate has strong family ties to a particular area where other placement would cause an unusual hardship.

(11) HOL. Hold, warrant or detainer is likely to be exercised.

~~(11)~~(12) INA. Documentation establishes that the inmate's inactive STG status may require special attention or placement consideration.

~~(12)~~(13) IMO. Inactive-Monitored. Documentation establishes that the inmate was released from SHU concurrent with implementation of the STG SDP through a Departmental Review Board hearing and requires special attention or placement considerations.

(14) IEX. Documentation exists that the inmate has been involved in the act of indecent exposure.

~~(13) HOL. Hold, warrant or detainer is likely to be exercised.~~

~~(14)~~(15) LIF. Inmate is serving a life sentence and requires placement in a facility with a security level higher than that indicated by his/her placement score.

~~(15)~~(16) MED. Inmate's medical condition requires treatment or continuing medical attention not available at all facilities.

~~(16)~~(17) MON. Monitored. Documentation establishes that the offender's monitored status reflects completion of the STG SDP and requires special attention or placement considerations.

~~(17)~~(18) OUT. Inmate requires placement at a specific facility for an out-to-court appearance. This factor shall also be used when a releasing authority appearance is nearing.

~~(18)~~(19) POP. Shall be used only by a CSR to indicate that no beds presently exist at a facility with a security level that is consistent with the inmate's placement score.

~~(19)~~(20) PRE. The short time remaining to serve limits or otherwise influences placement or program options for the inmate.

~~(20)~~(21) PSY. Inmate's psychological condition requires special treatment or may severely limit placement options. This factor shall also be used for those inmates who are designated as Category B.

~~(21)~~(22) PUB. Shall be used only by a CSR to indicate an inmate is identified as a Public Interest Case as defined in section 3000.

~~(22)~~(23) REN. Inmate is currently endorsed to or requires transfer to a Reentry Hub program and a Reentry Hub program is not available at a facility with a security level which is consistent with the inmate's placement score.

~~(23)~~(24) SCH. Inmate is involved in an academic program which is not available at a facility with a security level that is consistent with his/her placement score.

~~(24)~~(25) SEC. Shall be used only by a CSR to indicate that the inmate has been designated as a Security Concern by an ICC and requires Close B Custody.

~~(25)~~(26) SEX. Inmate has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.

(27) SNY. Sensitive Needs Yard. Placement within a SNY facility is determined necessary based on the inmate's case factors which limit opportunity to program within most General Population (non-SNY) facilities.

~~(26)~~(28) SOR. Inmate's bisexual or homosexual orientation may require special placement.

~~(27)~~(29) STG. Documentation establishes that the inmate's STG designation may require special attention or placement consideration.

~~(28)~~(30) TIM. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that which is consistent with his/her placement score.

~~(29)~~(31) VIO. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under Penal Code section 667.5(c), which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by his/her placement score.

(A) For the purposes of this subdivision, a "sustained juvenile adjudication" means a guilty determination or ruling rendered in a juvenile judicial proceeding.

(B) The following administrative determinations regarding allegations of violent acts, including but not limited to those offenses described in Penal Code Section 667.5(c), shall have the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:

1. Board of Parole Hearings or Parole Hearings Division good cause finding or probable cause finding, or;
2. California Youth Authority/Division of Juvenile Justice/Youth Offender Parole Board sustained allegation.

(C) A probation or Post-Release Community Supervision violation finding in a court of law involving, but not limited to those offenses described in Penal Code Section 667.5(c), shall have the same force and effect as a current or prior conviction in a court of law for a violent felony.

~~(30)~~(32) VOC. Inmate is involved in a Career Technical Education program, also referred to as a vocational program, which is not available at a facility with a security level which is consistent with the inmate's placement score.

~~(31)~~(33) WOR. Inmate has a work skill in a critical trade which warrants special placement consideration.

New subsections 3375.2(c) through 3375.2(c)(3) are adopted to read:

(c) It is primarily the responsibility of an inmate's assigned Correctional Counselor to ensure that the correct administrative determinant(s) are entered into the correct SOMS grid. There is no limit to the number of administrative determinants that can be selected.

(1) Any administrative determinates entered by the Correctional Counselor must be confirmed accurate and approved by the CSR.

(2) The CSR determines appropriate housing in keeping with Departmental needs, safety, and security, the inmate's placement score and administrative determinants.

(3) CSR approval of an administrative or irregular placement (administrative determinant) is valid only as long as the inmate's placement score remains with the same facility security level as when the approval was given.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3450, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Wright v. Enomoto* (N.D. Cal. 1976) 462 F.Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.

Existing subsection 3375.3 Title is amended to read:

~~3375.3. CDCR Initial Classification Score Sheet, CDCR Form 839, Calculation~~

Subsections 3375.3 through 3375.3(g)(2) are amended to read:

This section incorporates by reference CDCR Form 839 (Rev. 07/12), Classification Score Sheet. The factors and related numerical weights used to determine an inmate's preliminary score are listed below. Box numbers appear to the right, but refer to the first box on the left of each field.

(a) Background factors (~~Boxes 30-46~~):

(1) Age at first arrest (~~Boxes 30-31~~).

(A) ~~To Calculate~~ the inmate's age at first arrest based on the date of the inmate's first arrest. If there is no record of arrests prior to the commitment offense, use the date of arrest for the commitment offense as the date of the inmate's first arrest ~~on CDCR Form 839 (Rev. 07/12), CDCR Classification Score Sheet.~~

~~(B) When the age of first arrest is determined, round down to the full year and apply that information to the Age at First Arrest matrix on CDCR Form 839.~~

~~(C) Enter the corresponding point value in boxes to the right.~~

~~(D) Enter all single digit numbers in the box to the far right.~~

(B) Points will automatically be assessed on the SOMS scoresheet based upon the inmate's age first arrest, as follows:

1. 0-17 = 12

2. 18-21 = 10

3. 22-29 = 8

4. 30-35 = 4

5. 36+ = 0

(2) Age at Reception (~~Box 32~~).

~~(A) When the inmate's age at reception is determined, round down to the full year and apply that information to the Age at Reception matrix.~~ The inmate's date of reception for the commitment offense is automatically populated by SOMS.

~~(B) Enter the corresponding point value in the box to the right. Points will automatically be assessed on the SOMS scoresheet based on the inmate's age at reception, as follows:~~

- ~~1. 16-20 = 8~~
- ~~2. 21-26 = 6~~
- ~~3. 27-35 = 4~~
- ~~4. 36+ = 0~~

~~(C) This is always a single digit value.~~

~~(3) Term points (term in years x 2) (Boxes 33-34):~~

~~(A) The inmate's term for the current commitment offense is automatically populated. Presentence and postsentence credits shall are not be subtracted from length of term. A sentence of death or life without possibility of parole shall results in a maximum score of 50. For sentences of 25 years-to-life for murder, the base term is will be 25 years. For sentences under Penal Code section 667.7 with a term of life without parole for 20 years, the base term is 20 years. For all other life sentences, the base term is 15 years. Any enhancements or determinate terms for other counts or offenses to be served consecutive to a life term shall be are added to the base term before calculation of the term score.~~

~~(B) Enter term in whole years within the parentheses.~~

- ~~1. Multiply the number of years by two (2).~~
- ~~2. Enter this value in Boxes 33-34.~~
- ~~3. Any single digit value is entered in the box to the far right.~~
- ~~4. If the score is more than 50, then 50 shall be used as the final term score.~~

~~(B) If the score is more than 50, then 50 will be imposed as the final term score.~~

~~(C) If, subsequent to endorsement of the CDCR Form 839 Initial Classification Scoresheet, the inmate receives a new term, record the change in term points, if any, shall be recorded on a CDCR Form 840 (Rev. 07/12), Reclassification Score Sheet, as a result of this new term. Do not correct the CDCR Form 839.~~

~~(4) Street gang/disruptive group (Boxes 35-38). For the purpose of preliminary score evaluation, if there is information that the inmate is or has been involved in gang activity, enter, 6 points in Box 35 will be auto calculated when one of the codes below, with the exception of "Not Applicable", is selected.~~

~~(A) Type of street gang/disruptive group code. ApplySelect the code that most closely identifies the inmate's gang. Enter the appropriate alpha code in Boxes 36-37 affiliation.~~

- ~~1. CR Crip street gang/disruptive group.~~
- ~~2. BL Blood street gang/disruptive group.~~
- ~~3. NH Northern Hispanic street gang/disruptive group.~~
- ~~4. SH Southern Hispanic street gang/disruptive group.~~
- ~~5. AS Asian street gang/disruptive group.~~
- ~~6. BD Bulldogs street gang/disruptive group.~~
- ~~7. WH White supremacists, neo nazi, skinheads, etc., street gang/disruptive group.~~
- ~~8. BK Black street gang/disruptive group (not Crip nor Blood).~~
- ~~9. MC outlaw motorcycle clubs street gang/disruptive group.~~
- ~~10. OT other street gang/disruptive group not listed.~~

1. Asian street gang/disruptive group
2. Black street gang/disruptive group (not Crip nor Blood).
3. BL Blood street gang/disruptive group.
4. Bulldogs street gang/disruptive group.
5. Crip street gang/disruptive group
6. Northern Hispanic street gang/disruptive group
7. Not Applicable.
8. Other
9. Outlaw motorcycle clubs street gang/disruptive group.

10. Southern Hispanic street gang/disruptive group

11. White supremacists, neo nazi, skinheads, etc., street gang/disruptive group

(B) Method of verification code (~~Box 38~~). Apply Select the code that is most indicative of STG activity. Enter the appropriate alpha code in ~~Box 38~~:

~~1. Code A—Self admission. Staff shall document information about the inmate/parolee's self-admission and specific involvement with the STG/street gang. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~ Association. Information related to the inmate's association with validated STG affiliates. The association shall be more than a chance encounter or an innocuous association, but rather, a pattern or history of encounters that involve STG behavior and/or an occurrence of conducting STG related business. Direct contact with a validated STG affiliate is not necessary to show this association. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

~~2. Code B—Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been certified by CDCR pursuant to Section 3378.1, as being used by and distinctive to specific STGs/street gangs. Staff shall describe the tattoo or symbol in detail. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~ Communications. Documentation of conversations, conversations between offenders/others, mail, greeting cards, notes, or other communication, which include coded or explicit messages evidencing STG activity. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

~~3. Code C—Written material. Any material or documents evidencing STG activity such as the membership or enemy lists, roll call lists, constitutions, organization structures, codes, training material, etc., of specific STGs. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~ Legal documents. Probation officer's report, court transcripts, or other legal documents evidencing STG activity. Staff shall assure the document containing this information is disclosed to the inmate/parolee in written form that would not jeopardize the safety of any person or the security of the institution.

~~4. Code D—Photographs. Individual or group photographs with STG connotations such as those which include insignia, certified symbols, or validated STG affiliates. The date of the photograph shall be reasonably ascertained to be no older than four (4) years in order to be considered for a method of verification code. Any photograph being utilized as a source item that depicts STG affiliates shall be required to have at least one of the individuals previously validated by the department, or be validated by the department within six (6) months of the photograph's established or estimated date of origin. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~ Not Applicable. Any inmate not identified as being associated with or a member of an STG shall have "Not Applicable" entered under the "Method of Verification".

~~5. Code E—Staff information. Documentation of staff's visual or audible observations which reasonably indicate STG activity as described in Subsections 3314(a)(3)(L) and (M), Administrative Rules Violations, STG Contraband and Behavior; or Subsections 3315(a)(3)(Z) and (AA), Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~ Offenses. Where the circumstances of an offense indicates that the offense was committed for the benefit or promotion of, at the direction of, or in association with an STG. Staff shall document and disclose this information to the inmate/parolee in written form that would not jeopardize the safety of any person or the security of the institution.

~~6. Code F - Other agencies. Information evidencing STG affiliation provided by other agencies including, but not limited to, police reports, crime reports, or arrest reports evidencing STG~~

conduct, which have not been submitted, considered, and incorporated within received court documents. Any information from another agency shall be documented by the staff person who receives such information, citing the source and validity of the information. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

~~7. Code G—Association. Information related to the inmate's association with validated STG affiliates. The association shall be more than a chance encounter or an innocuous association, but rather, a pattern or history of encounters that involve STG behavior and/or an occurrence of conducting STG-related business. Direct contact with a validated STG affiliate is not necessary to show this association. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution. Photographs. Individual or group photographs with STG connotations such as those which include insignia, certified symbols, or validated STG affiliates. The date of the photograph shall be reasonably ascertained to be no older than four (4) years in order to be considered for a method of verification code. Any photograph being utilized as a source item that depicts STG affiliates shall be required to have at least one of the individuals previously validated by the department, or be validated by the department within six (6) months of the photograph's established or estimated date of origin. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~8. Code H—Offenses. Where the circumstances of an offense indicates that the offense was committed for the benefit or promotion of, at the direction of, or in association with an STG. Staff shall document and disclose this information to the inmate/parolee in written form that would not jeopardize the safety of any person or the security of the institution. Self admission. Staff shall document information about the inmate/parolee's self-admission and specific involvement with the STG/street gang. Staff shall document and disclose this information to the inmate/ parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~9. Code I—Legal documents. Probation officer's report, court transcripts, or other legal documents evidencing STG activity. Staff shall assure the document containing this information is disclosed to the inmate/parolee in written form that would not jeopardize the safety of any person or the security of the institution. Staff information. Documentation of staff's visual or audible observations which reasonably indicate STG activity as described in Subsections 3314(a)(L) and (M), Administrative Rules Violations, STG Contraband and Behavior, or Subsections 3315(a)(3)(Z) and (AA), Serious Rules Violations< STG Violent, Disruptive, or Controlling Behavior. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~10. Code J—Communications. Documentation of conversations, conversations between offenders/others, mail, greeting cards, notes, or other communication, which include coded or explicit messages evidencing STG activity. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution. Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been certified by CDCR pursuant to Section 3378.1, as being used by and distinctive to specific STGs/street gangs. Staff shall describe the tattoo or symbol in detail. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~11. Written material. Any material or documents evidencing STG activity such as the membership or enemy lists, roll call lists, constitutions, organization structures, codes, training material, etc., of specific STGs. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security~~

- ~~(5) Mental Illness (Box 43). Do not make an entry in Box 43 during intake processing. This box is only used during the CDCR 839 correction process to remove previously assessed Mental Illness points.~~
- ~~(6)(5) Prior sentences (Box 44). This item requires a review of the probation officer's report (POR) and the CI&I/CLETS in order to identify prior sentences of 31 days or more. Apply no more than one point. When a previous sentence of 31 days or more is noted SOMS will impose no more than one point, regardless of the number of prior sentences noted.~~
- (A) Jail or county juvenile sentence of 31+ days (~~Box 44~~).
1. Count any sentence of 31 days or more. Do not include suspended sentences or sentences for violations of Post-Release Community Supervision or parole.
 2. Count any incarceration under a delinquency petition which involves a crime rather than "status offender" placements. For example, "beyond parental control" should not be counted. Burglary, however, would be counted.
 3. Count CDCR placements for diagnostic evaluation pursuant to Penal Code Section 1203.03 "Z" cases, followed by a grant of probation.
- ~~(7)(6) Prior Incarceration(s) (Boxes 45-46)~~
- (A) Division of Juvenile Justice (formerly California Youth Authority), state or federal level juvenile, which includes state or federal facilities for juvenile offenders (~~Box 45~~).
- (B) CDCR, California Rehabilitation Center, adult state, federal level (~~Box 46~~):
1. Count any state or federal level incarceration.
 2. Count previous commitments to the civil addict program.
- ~~(8) Correction to CDC 839 Score Sheet (Prior to Rev. 07/02) (Boxes 47-49)~~
1. Use this section to correct a CDC 839 score sheet with a form revision date prior to 07/02.
 2. This area shall not be used for changes or adjustments to term points.
 3. Enter only the total correction to the score, either negative or positive, in the boxes provided.
- (b) Prior Incarceration Behavior (~~Boxes 50 through 64~~):
- (1) Last 12 months of Incarceration (~~Boxes 50-52~~). Prior incarceration behavior in any correctional agency shall include the last 12 consecutive months in custody, prior to the date that the inmate was received in CDCR, going as far back as necessary to attain a total of 12 months. This includes behavior while in county jail, after conviction, or during transportation to the reception center. For example, behavior while incarcerated in juvenile hall, federal prison, or while serving a civil addict commitment shall also be counted.
 - (2) Twelve months of incarceration is also defined as 360 days. For ease and consistency of rule application, a month is considered a 30-day month.
- (A) Only misbehavior which is equivalent to a serious rule violation, as defined in section 3315, shall be recorded.
- (B) If the inmate has a prior incarceration for 12 months or more but adequate documentation of the inmate's behavior is not available, four (4) favorable points shall be granted.
1. If behavioral information becomes available later, these items may need to be corrected.
- (3) Favorable prior behavior (~~Box 50~~):
- (A) If the inmate had no serious disciplinary(s) in the last 12 months of incarceration(s), ~~four points shall be entered in Box 50~~; the Correctional Counselor would enter two periods and four points will be auto-calculated by SOMS
- (B) If there is no record of unfavorable prior behavior, ~~enter four (4) favorable points in Box 50~~ will be auto calculated by SOMS.
- (4) Unfavorable prior behavior (~~Boxes 51-52~~). The date of each qualifying disciplinary action and where appropriate the date of those disciplinary actions which require additional points to be assessed shall be entered into SOMS where applicable and the total number of each category shall be entered in the corresponding SOMS screen and will cause SOMS to automatically add the additional points as described below.
- (A) For each serious disciplinary in the last 12 months of incarceration(s), four points ~~shall be entered in Boxes 51-52~~ will be auto calculated by SOMS.
- (B) Serious Disciplinary History (~~Boxes 53-64~~).

A single serious disciplinary may result in the assessment of points on the classification score sheet for more than one factor listed in subsections 3375.3(b)(4)(C) through (H). Assess points for behavior for which the inmate was found guilty and for behavior that occurred during any prior incarceration, if the behavior meets the definitions below even if it occurred beyond the last 12 months of incarceration.

(C) For each battery on a nonprisoner or attempted battery on a nonprisoner, eight points shall be ~~entered in Boxes 53-54.~~

1. Battery shall include any offense described in section 3005(d).

(D) For each battery or attempted battery on an inmate, four points ~~shall be entered in Boxes 55-56~~ will be auto calculated by SOMS. Assessments shall only include situations where one or more inmates are clearly the victim.

(E) For each involvement in the distribution of any controlled substance, per subsection 3323(c)(6), into a jail or correctional facility for distribution and sales, four points ~~shall be entered in Boxes 57-58~~ will be auto calculated by SOMS. Points shall not be assessed for incidents of personal use or possession of a small quantity of drugs.

(F) For each possession of a deadly weapon:

1. Four points ~~shall be entered in Boxes 59-60~~ will be auto calculated by SOMS for each well documented incident of an inmate's manufacture or possession of a deadly weapon where apparent use was intended (does not include possession of commonly available and unmodified objects unless used as a weapon and this fact is documented in the disciplinary hearing process). Include possession of a razor blade (whether modified or not) in a segregated program-housing unit (e.g. Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit, etc.); or,

2. Eight points ~~shall be entered in Boxes 59-60~~ will be auto calculated by SOMS for each possession of a deadly weapon incident, which occurred within five years of the inmate's reception to the Department on the current term.

(G) For each instance of a leadership role in deliberate and willful behavior which might lead to violence or disorder, and any willful attempt to incite others, either verbally or in writing, or by other deliberate action, to use force or violence upon another person, as described in section 3005 (this involves a leadership role in a facility riot, racial disturbance or work strike), four points ~~shall be entered in Boxes 61-62~~ will be auto calculated by SOMS.

(H) For each battery that caused serious bodily injury, ~~16~~^{sixteen} points ~~shall be entered in Boxes 63-64~~ will be auto calculated by SOMS. Inmates who conspired in or ordered the battery shall also receive these points.

1. Serious bodily injury is that which is defined in section 3000.

2. Any attempt, which may have been life-threatening but circumstances such as heavy clothing prevented the homicide, shall be included.

(c) Preliminary Score (~~Boxes 65-67~~).

(1) The inmate's preliminary score ~~is entered in Boxes 65-67 and is~~ will be auto calculated by SOMS as the result of adding the total points derived from background factors ~~in subsection (a)~~ with the total points derived from prior incarceration behavior ~~in subsection (b).~~

~~(2) Right justify the total score.~~

~~(3)(2)~~ Computations which result in a minus value shall be entered as zero.

(d) Mandatory Minimum Score Factor Code and Mandatory Minimum Score (~~Boxes 68-70~~):

(1) A mandatory minimum score is a score that is applied to an inmate who has a case factor that requires that he/she be housed no lower than a specific security level.

(2) A mandatory minimum score factor is a case factor that requires the application of a mandatory minimum score.

(3) A mandatory minimum score factor code is a numeric code associated with a mandatory minimum score factor.

(A) If an inmate has a case factor that requires the application of a mandatory minimum score factor code, ~~enter the code that applies in Box 68~~ select the appropriate case factor.

(B) If one or more mandatory minimum score factors are present, determine apply, select from the SOMS screen which of the factors is associated with the highest score and enter that code in Box 68.

(C) ~~Enter the mandatory minimum score that corresponds to the selected code in Boxes 69-70.~~

(C) Points will automatically be assessed by SOMS on the scoresheet based on an assigned score factor, as follows:

<u>1. Condemned</u>	<u>60</u>
<u>2. Life Without Possibility of Parole</u>	<u>36</u>
<u>3. History of Escape</u>	<u>19</u>
<u>4. Warrants "R" Suffix</u>	<u>19</u>
<u>5. Violence Exclusion</u>	<u>19</u>
<u>6. Other Life Sentence</u>	<u>19</u>

(e) ~~Placement Score (Boxes 71-73).~~

(1) If there are no case factors that require a mandatory minimum score, ~~enter~~ the preliminary score will be entered as the placement score by SOMS.

(2) If a mandatory minimum score has been applied, and it is greater than the preliminary score, ~~enter~~ the mandatory minimum score will be entered as the placement score by SOMS.

(3) If a mandatory minimum score has been applied, and it is less than the preliminary score, ~~enter~~ the preliminary score will be as the placement score by SOMS.

(f) ~~Special Case Factors (Boxes 74-76)~~

(1) ~~In Box 74, enter "A" if the inmate has an active felony hold, warrant, or detainer. Enter "P" if the inmate has a potential felony hold, warrant, or detainer. If the inmate has both an active and a potential felony hold, warrant, or detainer, enter "A".~~

(2) ~~In Box 75, enter "A" if the inmate has an active United States Immigration and Customs Enforcement (USICE) detainer. Enter "P" if the inmate has a potential USICE detainer.~~

(3) ~~In Box 76, enter "R" if the inmate meets the criteria for an "R" suffix per section 3377.1(b).~~

(g) ~~Classification Staff Representative Action (Boxes 95-159):~~

(1) ~~The CSR determines appropriate housing in keeping with Departmental needs, safety and security, the inmate's placement score and administrative determinants. The three letter codes from section 3375.2 shall be used to indicate the administrative determinants.~~

(A) ~~Up to five administrative determinants may be entered in Boxes 134-148.~~

1. ~~Reason for any administrative or irregular placement (Boxes 157-159).~~

2. ~~Entered only if the facility's security level where the inmate is placed is not consistent with his/her placement score.~~

(B) ~~Enter one of the administrative determinant's three letter code from section 3375.2.~~

(2) ~~CSR approval of an administrative or irregular placement (administrative determinant) is valid only as long as the inmate's placement score remains within the same facility security level as when the approval was given.~~

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3540, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

Existing Subsection 3375.4 Title is amended to read:

3375.4. ~~CDCR~~ Reclassification Score Sheet, ~~CDCR Form 840, Calculation.~~

Sections 3375.4 through subsection 3375.4(m) is amended to read:

~~This section incorporates by reference CDCR Form 840 (Rev. 07/12), Reclassification Score Sheet.~~

The Action Date, Facility, and Staff name will be auto populated on the Reclassification Score Sheet by SOMS. Staff select "Yes" to indicate the review being conducted is an annual review or "No" if it is not. SOMS automatically calculates a 6 month review period from the Beginning

Date. When necessary staff shall enter the appropriate Beginning Date to establish the correct 6 month or annual review period. SOMS auto calculates the number of 6 month review periods. If a new Reclassification Scoresheet is being created as a result of a correction, indicate the date of the Scoresheet being corrected. The review period Beginning Date for the Scoresheet being corrected must be entered.

The factors and their related numerical weights used to recalculate an inmate's preliminary score or new preliminary score are listed below. ~~Box numbers appear to the right but refer to the first box on the left of each field.~~

(a) Favorable behavior since last review (~~Boxes 46-51~~). The categories below provide favorable points for six-month intervals. For an annual reclassification review, two six-month periods may be counted. When an inmate's status is interrupted during the period without inmate fault, the period shall be considered continuous.

(1) For each six-month period of continuous minimum custody, four points ~~shall be entered in Boxes 46-47~~ will be auto calculated by SOMS.

(2) For each six-month period since the last review with no serious disciplinary(s), two points ~~shall be entered in Boxes 48-49~~ will be auto calculated by SOMS.

(3) For each six-month period with an average or above performance in work, school, Career Technical Education, substance abuse treatment or Cognitive Behavioral Treatment programs, including Transitions program, two points ~~shall be entered in Boxes 50-51~~ will be auto calculated by SOMS.

(A) Part-time assignments which, when work/program hours are added together, are equivalent to a full-time assignment shall be combined.

(B) Favorable points shall not be granted for average or above performance for inmates who are not assigned to a program.

(b) Unfavorable behavior since last review (~~Boxes 52-69~~): The date of each qualifying disciplinary action and where appropriate the date of those disciplinary actions which require additional points to be assessed shall be entered into SOMS where applicable and the total number of each category shall be entered in the corresponding SOMS screen as described below.

(1) For each serious misbehavior for which the inmate was found guilty during any six-month review period, ~~apply~~ eight points for a Division A-1 or A-2 offense will be auto calculated by SOMS; ~~apply~~ six points for a Division B, Division C, or Division D offense will be auto calculated by SOMS; ~~apply~~ four points for a Division E or Division F offense will be auto calculated by SOMS. Only misbehavior which is equivalent to a serious rule violation as defined in section 3315 shall be recorded in ~~Boxes 52-57~~. This includes behavior while in the county jail or conduct that occurred while the inmate was housed in another state or federal jurisdiction.

(A) Do not include any administrative rule violations.

(B) When the serious misbehavior also includes other factors listed in subsections (2) through (7) below, assess additional points for each applicable factor.

(2) For each battery on a nonprisoner or attempted battery on a nonprisoner during any six-month review period, eight points ~~shall be entered in Boxes 58-59~~ will be auto calculated by SOMS.

(A) Battery means any offense as described in section 3005(d) where criminal prosecution had, or would normally have, taken place.

(3) For each battery on an inmate or attempted battery on an inmate during any six-month review period, four points ~~shall be entered in Boxes 60-61~~ will be auto calculated by SOMS.

(A) Refers to situations where one or more inmates are clearly the victim.

(B) Do not include mutual combat where both inmates were co-responsible.

(4) For each incident involving the distribution of any controlled substance, per subsection 3323(c)(6), in an institution/facility or contract health facility, for distribution and sales, four points ~~shall be entered in Boxes 62-63~~ will be auto calculated by SOMS. Points shall not be assessed for personal use or possession of a small quantity of drugs, or being under the influence.

(5) For each well-documented serious misbehavior for possession of a deadly weapon where apparent use was intended, 16 points ~~shall be entered in Boxes 64-65~~ will be auto calculated by

SOMS. Points shall not be assessed for possession of commonly available and unmodified objects, unless they were used as weapons and that fact is documented in the disciplinary report. Include possession of a razor blade (whether modified or not) in a segregated program-housing unit (e.g., Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit, etc.).

(6) For each serious disciplinary where the inmate led a facility riot, racial disturbance or work strike, four points ~~shall be entered in Boxes 66-67~~ will be auto calculated by SOMS. Include any willful and deliberate behavior which may have led to violence or disorder, and any willful attempt to incite others, either verbally or in writing, or by other deliberate action, to use force or violence upon another person, of the type described in section 3005.

(7) For each battery that caused serious bodily injury, 16 points ~~shall be entered in Boxes 68-69~~ will be auto calculated by SOMS. Inmates who conspired in or ordered such battery shall receive the same points.

(A) Serious bodily injury is that which is defined in Section 3000.

(B) Any attempted battery which may have been life threatening but circumstances such as heavy clothing prevented the homicide shall be included.

(c) Corrections to CDC 840 Reclassification Score Sheet Scoresheet (Prior to Rev. 07/02) (Boxes 70-72).

(1) Use this section to correct a ~~CDC 840 Score Sheet previous Scoresheet~~ with a form revision date prior to 07/02.

(2) Enter only the total correction to the score, either negative or positive, ~~in boxes provided~~.

(d) Computation of Prior Preliminary Score (Boxes 73-75):

(1) ~~The prior preliminary score is the calculated score that appears on the most current classification score sheet. Enter that value in Boxes 73-75. SOMS auto populates the Prior Preliminary Score from the most recent scoresheet, whether it is an Initial Scoresheet, a Classification Scoresheet, or a Readmission Scoresheet.~~

~~(2) When the most current score appears on the CDC Classification Score Sheet, CDC Form 839, (Rev. 07/02) or later, enter the value from that score sheet that is the preliminary score.~~

~~(3) When the most current score appears on the CDC Reclassification Score Sheet, CDC Form 840, (Rev 07/02) or later, enter the value from that score sheet that is the new preliminary score.~~

~~(4) When the most current score appears on the CDC Readmission Score Sheet, CDC Form 841, (Rev. 07/02) or later, enter the value from that score sheet that is the new preliminary score.~~

(e) Net Change in Score (Boxes 76-78):

~~(1) Combine the total favorable points (item C.4.) with the total unfavorable points (item D.8). Enter the total as a plus or minus value for net change in score.~~

(1) SOMS automatically calculates the total favorable and unfavorable behavior as they are entered and displays the results.

(2) SOMS also provides for the ability to adjust favorable points on the Corrected Scoresheet.

(f) Preliminary Score Subtotal:

(1) The prior preliminary score subtotal is the combined value of the prior preliminary score and the net change in score.

~~(2) Record this value on the line provided.~~

~~(3)~~(2) Computations that result in a minus value shall will automatically be entered as zero.

(g) Change in sentence term points (Boxes 79-81):

(1) When an inmate receives a new or additional sentence to prison which changes the total term length, two points shall be added or subtracted for each year of difference between the new term and the old term. The resultant plus or minus figure is the change in term points.

(2) When the Board of Parole Hearings establishes a parole date for an inmate with a life sentence:

(A) The total projected incarceration time in years and months is the term length.

~~(B) Multiply the total term length in years by two (2).~~

(B) The total term length in years will be multiplied by two (2) and auto populated.

(C) ~~Determine~~ The difference between the new term points and the old term points is automatically calculated by SOMS. The resultant plus or minus figure is the change in term points.

(3) For parole violators: If a parole violator receives a new term after the ~~CDCR Form 841 (Rev. 07/12)~~ Readmission Scoresheet has been endorsed, the prior term points shall be given a minus value and combined with new term points. The difference is the change in term points.

(4) ~~Do not record a~~ A change in term points will not be recorded unless there is a change in the total term.

(h) ~~Recalculation of the~~ New Preliminary Score:

(1) The inmate's new preliminary score is ~~entered in Boxes 82-84~~ automatically calculated by SOMS and is the result of combining the preliminary score subtotal and any adjustments resulting from a change in term points as determined in subsection (g).

~~(2) Right justify the total.~~

~~(3)~~ (2) Computations that result in zero or a minus value ~~shall~~ will be entered as zero.

(i) ~~Mandatory Minimum Score Factor Code and Mandatory Minimum Score (Boxes 85-87):~~

(1) A mandatory minimum score is a score that is applied to an inmate who has a case factor that requires that he/she be housed no lower than a specific security level.

(2) A mandatory minimum score factor is a case factor that requires the application of a mandatory minimum score.

(3) A mandatory minimum score factor code is a numeric code associated with a mandatory minimum score factor.

(A) If an inmate has a case factor that requires the application of a mandatory minimum score factor code, ~~enter the code that applies in Box 85~~ select the appropriate case factor.

(B) If one or more mandatory minimum score factors ~~are present~~ apply, determine which of the factors is associated with the highest score and enter that code ~~in Box 85.~~

~~(C) Enter the mandatory minimum score that corresponds to the selected code in Boxes 86-87.~~

(C) Points will automatically be assessed by SOMS on the scoresheet based on an assigned score factor, as follows:

<u>1. Condemned</u>	<u>60</u>
<u>2. Life Without Possibility of Parole</u>	<u>36</u>
<u>3. History of Escape</u>	<u>19</u>
<u>4. Warrants "R" Suffix</u>	<u>19</u>
<u>5. Violence Exclusion</u>	<u>19</u>
<u>6. Other Life Sentence</u>	<u>19</u>

(j) ~~Placement Score (Boxes 88-90).~~

(1) If there is no case factor requiring a mandatory minimum score, ~~enter~~ the new preliminary score will be entered as the placement score by SOMS.

(2) If a mandatory minimum score is applied, and it is greater than the new preliminary score, ~~enter~~ the mandatory minimum score will be entered as the placement score by SOMS.

(3) If a mandatory minimum score is applied, and it is less than the new preliminary score, ~~enter~~ the new preliminary score will be entered as the placement score by SOMS.

(4) The placement score is the primary factor used to determine the security level to which the inmate is assigned.

(k) ~~Special Case Factors (Boxes 91-93)~~

(1) ~~In Box 91, enter "A" if the inmate has an active felony hold, warrant, or detainer. Enter "P" if the inmate has a potential felony hold, warrant, or detainer. If the inmate has both an active and a potential felony hold, warrant, or detainer, enter "A".~~

(2) ~~In Box 92, enter "A" if the inmate has an active United States Immigration and Customs Enforcement (USICE) detainer. Enter "P" if the inmate has a potential USICE detainer.~~

(3) ~~In Box 93, enter "R" if the inmate meets the criteria for an "R" suffix per section 3377.1(b).~~

(4) ~~Enter "*" to remove a previous entry in Boxes 91-93 that no longer applies.~~

(l) ~~Classification Staff Representative (Boxes 115-188):~~

~~(1) The CSR determines appropriate housing in keeping with Departmental needs, safety and security, the inmate's placement score and administrative determinants. The three letter codes from section 3375.2 shall be used to indicate the administrative determinants.~~

~~(A) Up to five administrative determinants may be entered in Boxes 159-177.~~

~~1. An asterisk (*) shall be placed in the box adjacent to each administrative determinant which is being removed (i.e., no longer valid).~~

~~2. Reason for administrative or irregular placement (Boxes 186-188).~~

~~(B) Entered only if the facility's security level where the inmate is placed is not consistent with the inmate's placement score.~~

~~(C) Enter one of the administrative determinant's three letter code from section 3375.2.~~

~~(2) CSR approval of an administrative or irregular placement is only valid as long as the inmate's placement score remains within the same facility security level score range as when the approval was given.~~

~~(m)(k)~~ An inmate whose CDCR term has been discharged due to the conviction being vacated on appeal who is then re-convicted and returned to CDCR custody for the same crime event shall be considered for a one-time point adjustment commensurate with the net change in points attributable to positive and/or negative behavior achieved during the original associated CDCR term.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F.Supp. 397 ; and *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302.

Existing Subsection 3375.5 Title is amended to read:

~~3375.5. CDCR Readmission Score Sheet, CDCR Form 841, Calculation.~~

Section 3375.5 through subsection 3375.5(k)(1)(B)(3) is amended to read

~~This section incorporates by reference CDCR Form 841 (Rev. 07/12), Readmission Score Sheet. A Readmission Scoresheet is used to evaluate the case of a parole violator who is returned to CDCR custody with a new commitment, or parole violator returned to custody.~~

~~The factors and their related numerical weights used to recalculate an inmate's preliminary score upon readmission to the Department are listed below. Box numbers appear to the right, but refer to the first box on the left of each field.~~

~~(a) The Action Date, Facility, and Staff name will be auto populated on the Readmission Scoresheet by SOMS. SOMS automatically calculates a 6 month review period from the Beginning Date. When necessary staff shall enter the appropriate Beginning Date to establish the correct periods of review. SOMS auto calculates the number of 6 month review periods.~~

~~(a)(b)~~ Favorable behavior since last review (~~Boxes 48-53~~). The categories below provide favorable points for six-month intervals. When an inmate's status is interrupted during the period without inmate fault, the period shall be considered continuous.

(1) For each six-month period of continuous minimum custody, four points ~~shall be entered in Boxes 48-49~~ shall be auto calculated by SOMS.

(2) ~~Apply o~~One-half favorable behavior points for less than a full six-month review period will be auto calculated by SOMS.

(3) Unfavorable behavior points shall be assessed at full value.

~~(B)(A)~~ For each six-month period since the last review with no serious disciplinary, two points ~~shall be entered in Boxes 50-51~~ will be auto calculated by SOMS.

~~(C)(B)~~ For each six-month period with an average or above performance in work, school Career Technical Education, substance abuse treatment or Cognitive Behavioral Treatment program, including Transitions program, two points ~~shall be entered in Boxes 52-53~~ will be auto calculated by SOMS.

1. Part-time assignments which, when work and program hours are added together, are equivalent to a full-time assignment shall be combined.

2. Favorable points shall not be granted for average or above performance for inmates who are not assigned to a program.

~~(b)(c)~~ Unfavorable behavior since last review (Boxes 54-71): The date of each qualifying disciplinary action and where appropriate the date of those disciplinary actions which require additional points to be assessed shall be entered into SOMS and the total number of each category shall be entered in the corresponding SOMS screen and will cause SOMS to automatically add the additional points as described below.

(1) For each serious misbehavior for which the inmate was found guilty during a six-month review period, ~~apply~~ the following points will automatically be assessed by SOMS; eight points for a Division A-1 or A-2 offense; ~~apply~~ six points for a Division B, Division C, or Division D offense; ~~apply~~ four points for a Division E or Division F offense ~~in Boxes 54-59~~. Only misbehavior that is equivalent to a serious rule violation as defined in section 3315 shall be recorded. This includes behavior while in the county jail or conduct that occurred while the inmate was housed in another state or federal jurisdiction.

(A) Do not include any administrative rule violations.

(B) When the serious misbehavior also includes other factors listed in subsection (2) through (7) below, ~~assess~~ additional points for each applicable factor will be added by SOMS.

(2) For each battery on a non-prisoner or attempted battery on a non-prisoner during any six-month review period, eight points ~~shall be entered in Boxes 60-61~~ will be auto calculated by SOMS.

(3) Battery means any offense as described in section 3005(d) where criminal prosecution had, or would normally have taken place.

(4) For each battery on an inmate or attempted battery on an inmate during any six-month review period, four points ~~shall be entered in Boxes 62-63~~ will be auto calculated by SOMS.

(A) Refers to situations where one or more inmates are clearly the victim.

(B) Do not include mutual combat where both inmates were co-responsible.

(5) For each incident involving the distribution of any controlled substance, per subsection 3323(c)(6), in an institution/facility or contract health facility, for distribution and sales, four points ~~shall be entered in Boxes 64-65~~ will be auto calculated by SOMS. Points shall not be assessed for personal use or possession of a small quantity of drugs, or being under the influence.

(6) For each well-documented serious disciplinary for possession of a deadly weapon where apparent use was intended, 16 points ~~shall be entered in Boxes 66-67~~ will be auto calculated by SOMS. Points shall not be assessed for possession of commonly available and unmodified objects, unless they were used as weapons and that fact is documented in the disciplinary report. Include possession of a razor blade (whether modified or not) in a segregated program-housing unit (e.g., Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit, etc.).

(7) For each serious disciplinary where the inmate led a facility riot, racial disturbance or work strike, four points ~~shall be entered in Boxes 68-69~~ will be auto calculated by SOMS. Include any willful and deliberate behavior that may have led to violence or disorder, and any willful attempt to incite others, either verbally or in writing, or by other deliberate action, to use force or violence upon another person, of the type described in section 3005.

(8) For each battery that caused serious bodily injury, 16 points ~~shall be entered in Boxes 70-71~~ will be auto calculated by SOMS. Inmates who conspired in or ordered the battery shall receive the same points.

(A) Serious bodily injury is that which is defined in Section 3000.

(B) Any attempted battery which may have been life threatening but circumstances such as heavy clothing prevented the homicide shall be included.

~~(e)(d)~~ Computation of Prior Preliminary Score (Boxes 75-77):

(1) ~~The prior preliminary score is the calculated score that appears on the most current classification score sheet. Enter that value in Boxes 75-77.~~

(1) SOMS auto populates the Prior Preliminary Score from the most recent scoresheet, whether it is an Initial Scoresheet, a Reclassification Scoresheet, or a Readmission Scoresheet.

~~(2) When the most current score appears on the CDC Form 839 (Rev. 07/02) or later, CDC Classification Score Sheet, enter the value from that score sheet that is the preliminary score.~~

~~(3) When the most current score appears on the CDC Form 840, (Rev. 07/02) or later, CDC Reclassification Score Sheet, enter the value from that score sheet that is the new preliminary score.~~

~~(4) When the most current score appears on the CDC Form 841, (Rev 07/02) or later, CDC Readmission Score Sheet, enter the value from that score sheet that is the new preliminary score.~~

~~(d)(e) Net Change in Score (Boxes 78-80):~~

~~Combine the total favorable points (item C.4.) with the total unfavorable points (item D.8.). Enter the total as a plus or minus value for net change in score.~~

(1) SOMS automatically calculates the favorable and unfavorable behavior as they are entered and displays the results.

(2) SOMS also provides for the ability to adjust favorable points on the Corrected Scoresheet.

~~(e)(f) Preliminary Score Subtotal~~

~~(1) The prior preliminary score subtotal is the combined value of the prior preliminary score and net change in score.~~

~~(2) Record this value on the line provided.~~

~~(3)(2) Computations that result in a minus value shall be entered as zero.~~

~~(f)(g) Change in term points (Boxes 81-83):~~

~~(1) If, during reception center processing, the inmate has been designated as a PVRTC, do not enter a value. This area is left blank for an inmate who has returned as a parole violator *without* a new term.~~

~~(2) If, subsequent to reception center processing, the parole violator receives a new term, record the change in term points, if any, on a CDCR Form 840 (Rev. 07/12), Reclassification Score Sheet Scoresheet, as a result of this new term. Do not correct the CDCR Form 841 Readmission Scoresheet.~~

~~(3) If, during reception center processing, the inmate has been designated as a PVWNT, the prior term points shall be given a minus value and combined with the new term points. To determine the new term points, multiply the number of whole years will be multiplied by times two. Drop months from the calculation.~~

~~(4) Any term point adjustments that may have been recorded on a previous CDC Form 840 Reclassification Scoresheet or CDC Form 841 Readmission Scoresheet must also be taken into consideration to determine the final total change in term points.~~

~~(5) Determine ~~the~~ difference between the new term points and the old term points will be calculated by SOMS. The resultant plus or minus figure is the change in term points.~~

~~(6) A change in the term points is recorded only if there is a change in the total term length.~~

~~(g)(h) New Preliminary Score (Boxes 84-86):~~

~~(1) The inmate's new preliminary score is the result of combining the preliminary score subtotal with the change in term points (if any).~~

~~(2) Right justify the total.~~

~~(3)(2) Computations that result in zero or a minus value shall be entered as zero.~~

~~(h)(i) Mandatory Minimum Score Factor Code and Mandatory Minimum Score (Boxes 87-89):~~

~~(1) A mandatory minimum score is a score that is applied to an inmate who has a case factor that requires that he/she be housed no lower than a specific security level.~~

~~(2) A mandatory minimum score factor is a case factor that requires the application of a mandatory minimum score.~~

~~(3) A mandatory minimum score factor code is a numeric code associated with a mandatory minimum score factor.~~

~~(A) If an inmate has a case factor that requires the application of a mandatory minimum score factor code, enter the code that applies in Box 87select the appropriate case factor.~~

(B) If one or more mandatory minimum score factors is present, ~~determine~~ apply, select which of the factors is associated with the highest score and ~~enter that code in Box 87.~~

~~(C) Enter the mandatory minimum score that corresponds to the selected code in Boxes 88-89.~~

(C) Points will automatically be assessed by SOMS on the scoresheet based on an assigned score factor, as follows:

<u>1. Condemned</u>	<u>60</u>
<u>2. Life Without Possibility of Parole</u>	<u>36</u>
<u>3. History of Escape</u>	<u>19</u>
<u>4. Warrants "R" Suffix</u>	<u>19</u>
<u>5. Violence Exclusion</u>	<u>19</u>
<u>6. Other Life Sentence</u>	<u>19</u>

~~(i)(j)~~ Placement Score (~~Boxes 90-92~~)

(1) If there are no case factors that require a mandatory minimum score, ~~enter~~ the new preliminary score will be entered as the placement score by SOMS.

(2) If a mandatory minimum score has been applied, and it is greater than the new preliminary score, enter the mandatory minimum score as the placement score.

(3) If a mandatory minimum score has been applied, and it is less than the new preliminary score, ~~enter~~ the new preliminary score will be entered as the placement score by SOMS.

(4) The placement score is the primary factor that is used to determine the security level to which the inmate is assigned.

~~(j)~~ Special Case Factors (~~Boxes 93-95~~)

(1) ~~In Box 93, enter "A" if the inmate has an active felony hold, warrant, or detainer. Enter "P" if the inmate has a potential felony hold, warrant, or detainer. If the inmate has both an active and a potential felony hold, warrant, or detainer, enter "A".~~

(2) ~~In Box 94, enter "A" if the inmate has an active United States Immigration and Customs Enforcement (USICE) detainer. Enter "P" if the inmate has a potential USICE detainer.~~

(3) ~~In Box 95, enter "R" if the inmate meets the criteria for an "R" suffix per section 3377.1(b).~~

~~(k)~~ Classification Staff Representative (~~Boxes 117-181~~):

(1) ~~The CSR determines appropriate housing in keeping with Departmental needs, safety and security, the inmate's placement score and administrative determinants.~~

(A) ~~The three letter codes from section 3375.2 shall be used to indicate the administrative determinants. Up to five administrative determinants may be entered in Boxes 156-170.~~

~~(B) Reason for administrative or irregular placement (Boxes 179-181).~~

1. ~~Entered only if the facility's security level where the inmate is placed is not consistent with his/her placement score.~~

2. ~~Enter one of the administrative determinant's three letter codes from section 3375.2.~~

3. ~~CSR approval of an administrative or irregular placement is valid only as long as the inmate's placement score remains within the same facility security level as when the approval was given.~~

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code

3377.1. Inmate Custody Designations.

Subsections 3377.1(a) through 3377.1(b)(4)(C) remain unchanged.

Subsection 3377.1(b)(5) is amended to read:

(5) When completing an "R" suffix evaluation, the classification committee shall consider the arrest report(s) and district attorney's comments. However, a classification committee may affix an "R" suffix if the arrest report(s) are available and the district attorney's comments are unavailable. The classification committee shall document in a ~~CDC Form 128-G~~ Classification Committee Chrono the attempts/steps taken to obtain the required documentation.

Subsections 3377.1(b)(5)(A) through 3377.1(d)(3)(B) remain unchanged.

Note: Authority cited: Section 5058, Penal Code, Reference: Sections 290, 4852.01, 5054 and 5068, Penal Code; Americans With Disability Act (ADA) , 42 U.S.C. § 12131, et seq.; and Pennsylvania Department of Corrections v. Yeskey (1998) 524 U.S. 206.

3378. Security Threat Group Identification, Prevention, and Management

Section 3378 through subsection 3378(c) is amended to read:

(a) Any information regarding an offender which is or may be critical to the safety of persons inside or outside an institution shall be documented as required below on a ~~CDCR Form 812 (Rev. 11/13), Notice of Critical Case Information – Safety of Persons (Nonconfidential Enemies), which is incorporated by reference and CDCR Form 812-C (Rev. 8/01), Notice of Critical Information – Confidential Enemies. The CDCR Form 812, and CDC Form 812-C~~ a SOMS Non-Confidential Offender Separation Alerts screen and a SOMS Confidential Offender Separation Alerts screen. The several SOMS Non-Confidential Offender Separation Alerts, the SOMS Confidential Offender Separation Alerts, and all documents referred to on the forms shall be filed in the central file of each identified offender. Any confidential material affecting the critical case factors of an offender shall conform to the provisions of section 3321. Entries on these forms shall not be a substitute for detailed documentation required elsewhere in the central file.

(b) A ~~CDCR Form 812~~ SOMS Non-Confidential Offender Separation Alerts screen, and when applicable, a ~~CDC Form 812-C~~ SOMS Confidential Offender Separation Alerts, shall be ~~completed~~ created or updated for each newly committed or returned offender, or as necessary whenever a new enemy concern is identified.

(1) The ~~CDCR Form 812 and CDC Form 812-C~~ SOMS Non-Confidential Offender Separation Alerts screen and SOMS Confidential Offender Separation Alerts shall be updated as any critical information becomes known and is documented in the offender's central file. The ~~forms~~ information shall also be reviewed and updated at the time of any change in the offender's status or placement.

(2) Any offender who claims enemies shall provide sufficient information to positively identify the claimed enemy. Any offender identified as an enemy shall be interviewed unless such interview would jeopardize an investigation or endanger any person. The results of the interview or investigation which supports, verifies or disproves the information shall be documented ~~on~~ in SOMS on a screen entitled “SOMS Case Notes” or other documentation as appropriate to identify the enemy concern, to include a CDC Form 128-B, General Chrono.

(3) Notations on the ~~CDCR Form 812 and CDC Form 812-C~~ SOMS Non-Confidential Offender Separation Alerts screen and SOMS Confidential Offender Separation Alerts, or absence thereof, shall not be the sole basis for a staff decision or action which may affect the safety of any person.

(c) Gang involvement allegations shall be investigated by a gang coordinator/investigator or their designee.

Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

3379. Inmate Transfers.

Subsections 3379(a) through 3379(a)(9)(C)(3) remain unchanged

Subsections 3379(a)(9)(D) through 3379(a)(9)(F)(1) are amended to read:

(D) The notification of eligibility, and the notification of opportunity for attorney consultation and interpreter needs, shall be documented on the ~~CDC Form 128-B (Rev 4/74), General Chrono~~ SOMS Case Notes or on the CDC Form 128-B which will be stored in ERMS.

(E) The information regarding the attorney consultation or waiver of such consultation by the inmate shall be documented:

1. At the Reception Centers, on the ISRS.
2. For all non-Reception Center inmates, on the ~~CDC Form 128-G (Rev. 10/89)~~, Classification Committee Chrono.

(F) Voluntary Transfer. An inmate who is eligible for transfer to COCF and volunteers for such a transfer shall sign a CDCR Form 2169 (Rev. 8/08), Out Of State Placement Agreement, which is hereby incorporated by reference. Notwithstanding subdivision (a)(6), COCF inmates are not required to sign a CDC Form 294 (Rev. 7/88). Upon notification of potential involuntary transfer, inmates shall no longer be eligible for voluntary transfer.

1. An inmate who volunteers for transfer to COCF may waive his opportunity to consult with an attorney by signing a ~~CDCR Form 2168 (Rev. 08/08)~~, SOMS Attorney Waiver Statement, which is hereby incorporated by reference.

Subsections 3379(a)(9)(F)2 through 3379(d)(4) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2911, 5025, 5054, 5068, 5080 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Armstrong v. Schwarzenegger*, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006; *Coleman v. Schwarzenegger*, United States District Court, E.D. Cal., No. CIV-S-90-0520 LKK JFM P, Order issued November 6, 2006; and *Whitaker v. Rushen* (9th Cir. 1983) 720 F.2d 1132, 1135.