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Title 15. Crime Prevention and Corrections

Division 3

Rules and Regulations of

Adult Institutions, Programs and Parole

Department of Corrections and Rehabilitation

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DIVISION 3. ADULT INSTITUTIONS, PROGRAMS AND PAROLE

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DIVISION 3. ADULT INSTITUTIONS, PROGRAMS AND PAROLE

CHAPTER 1. RULES AND REGULATIONS OF ADULT OPERATIONS AND PROGRAMS

HISTORY:
1. Change without regulatory effect repealing preface filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).

Article 1. Behavior

3000. Definitions.

The following are definitions of terms as used in these regulations:

Accessory means a person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that the principal may avoid punishment, and has knowledge that said principal committed the felony.

Adverse Witness means a person who has given or will give information against a prisoner or parolee.

Appeal means a formal request for, or the act of requesting, an official change of a decision, action, or policy.

Appeal Form means Inmate/Parolee Appeal Form, CDC Form 602 (Rev. 12/87).

Architectural and Engineering Services means those services procured outside of the State's Civil Service procedures and which are rendered by an architect or engineer, but may include ancillary services logically or justifiably performed in connection therewith.

Asylum State means the state other than California in which a parolee-at-large is in custody.

Attempted Escape means an unsuccessful effort to breach a secured perimeter or the use of force against a person to attempt access into an unauthorized area. Some progress toward implementing an escape must be made to implement a plan. This includes, but is not limited to the following overt acts: acquiring unauthorized clothing or identification, preparing a hiding place in an unauthorized area, lying in wait for a potential hostage, attempting access to a perimeter that was unsupervised, unlawfully obtaining tools to aid in an escape, manufacturing a likeness of a person in order to substitute for the inmate's presence, or receiving assistance from other conspirators who acted upon an escape plan, e.g. a plan to escape uncovered from verbal, telephone or mail communication.

Behavior Management Unit is alternate general population housing and programming which is designed to reduce inmates' continuing involvement in disruptive behavior, violence, or noncompliance with CDCR rules and regulations, allowing nondisruptive inmates in the general population the opportunity to program without continual interruption due to the behavior of a smaller, more disruptive segment of the inmate population.

Board of Prison Terms (Board) means the state agency which is responsible for the administration of parole for those persons committed to the department under Penal Code section 1168 and those committed under Penal Code section 1170 who also meet the criteria found in Penal Code section 2962.

California Agency Parolee means a person released from department facility to parole supervision in a California community who subsequently is within the custody of any California agency, or subdivision thereof, except the department.

California Agency Prisoner means a prisoner who has been transferred from the custody of the department to the custody of any other California agency or subdivision thereof.

California Concurrent Parolee means a person on parole for a California sentence and a sentence of another jurisdiction who is being supervised in a California community pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175–11179).

Case Conference means a documented conference between a parole agent and his/her supervisor to discuss a parolee's behavior.

Case records file means the file which contains the information concerning an inmate which is compiled by the department pursuant to Penal Code Section 2081.5 and includes such components as the central file, education file, visiting file and parole field file.

Central File (C-File) means a master file maintained by the department containing records regarding each person committed to its jurisdiction.

Central Office Calendar means the calendar which is composed of administrative hearing officers as designated by the deputy director, parole hearings division. They are authorized to make decisions regarding matters reported to the parole hearings division, including the decision to order a hearing scheduled.

Central Office Hearing Coordinator means the parole hearings division employee at headquarters who is responsible for hearing schedules, attorney appointments, and other hearing-related services.

Certification means that a business concern has obtained verification that it meets the definition of disabled veteran business enterprise pursuant to Military and Veterans Code section 999(g) from an agency that has been authorized by law to issue such certification.

Chaplain means an individual duly designated by a religious denomination to discharge specified religious duties, including a native American Indian spiritual leader.

Chronological History means a CDC Form 112 (Rev. 9/83), Chronological History, prepared for each inmate, upon which significant dates and commitment information affecting the inmate are logged.

Classification and Parole Representative (C&PR) means the department employee designated at each institution to be that institution's liaison with releasing boards and parole staff.

Concurrent Parolee means a person on parole for a California sentence and a sentence of another jurisdiction who is being supervised in a state other than California pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175–11179).

Conditions of Parole mean the specific conditions under which a prisoner is released to parole supervision.

Confinement to Quarters (CTQ) means an authorized disciplinary hearing action whereby an inmate is restricted to their assigned quarters for a period not to exceed five days for administrative rule violations and ten days for serious rule violations.

Contraband means anything which is not permitted, in excess of the maximum quantity permitted, or received or obtained from an unauthorized source.

Controlled Substance means any substance, drug, narcotic, opiate, hallucinogen, depressant, or stimulant as defined by California Health and Safety Code section 11007. Also included are prescribed medications containing any of the substances identified in the H&SC section above.

Cooperative Parolee means a person on parole for a California sentence who is under parole supervision in a state other than California pursuant to the Uniform Act for Out-of-State Parole Supervision (Penal Code sections 11175–11179).

Course of conduct means two or more acts over a period of time, however short, evidencing a continuity of purpose.

Criminal Identification and Investigation (CI&I) Report means the report defined by Penal Code section 11105, commonly referred to as "Rap Sheet".

Cumulative Case Summary means the cumulative summary of specific portions of the record maintained by the department regarding each prisoner from reception to discharge.

Custody of the department means the inmate is in the physical custody of the department. The inmate would be considered out of the custody of the department when; out to court and housed in a County or Federal facility, escaped and not returned to departmental custody, in a non-departmental mental health facility, and in a medical facility under non-departmental supervision.

Dangerous contraband means materials or substances altered from their original manufactured state or purpose and which could be fashioned into a weapon. Examples would include, but not be limited to, metal, plastic, wood, or wire. Also included are: sharpened objects such as scissors or other tools not authorized to be in the inmate's possession, as well as poison, caustic substances, or flame producing devices i.e. matches or lighters.

Deadly weapon means any weapon identified in Penal Code section 4502. Any item or substance not readily identified as a weapon becomes a deadly weapon when used in a manner that could reasonably result in serious bodily injury or death.

Department means the department of corrections.

Designated Level II Housing means a housing facility encompassed by a facility security perimeter and constructed to provide celled housing for inmates with Level II classification scores.

Detainer means a written document received from an official representing a district attorney office, court, or correctional or law enforcement agent which indicates that an inmate is wanted by that office and the basis for the detainer.

Determinate Sentencing Law (DSL) Prisoner means a person sentenced to prison under Penal Code section 1170 for a crime committed on or after July 1, 1977.

Direct and Constant Supervision means an inmate shall be monitored and observed by CDC staff, either custody staff or work supervisor as indicated in these regulations, sufficiently to account for the specific whereabouts of the inmate at all times.

Director means the director of the department of corrections.

Disabled Veteran Business Enterprise means a business concern as defined in Military and Veterans Code section 999(g).

Disabled Veteran Business Enterprise focus paper means a publication that meets all of the following criteria: (1) has an orientation relating to the disabled veteran business enterprise; (2) is known and utilized by members of the disabled veteran business enterprise community; (3) primarily offers articles, editorials (if any), and advertisements of business opportunities aimed at disabled veteran business enterprises; and (4) is readily available within the geographical area for which the advertisement is placed and for which the services are to be performed.

Disabled Veteran Business Enterprise focus paper and trade paper means a publication that meets all of the criteria of a disabled veteran business enterprise focus paper and all of the criteria of a trade paper.

Disciplinary Detention means a temporary housing status which confines inmates so assigned to designated rooms or cells for prescribed periods of time as punishment for serious rule violations.

Disciplinary Free means without any finding of guilt of a disciplinary infraction filed on a CDC Form 115, Rule Violation Report, classified as either administrative or serious.

Disciplinary Free Period means the period that commences immediately following the date and time an inmate is identified (date of discovery of information leading to the charge) as committing a rules violation classified as serious.

Disruptive Behavior means behavior which might disrupt orderly operations within the institutions, which could lead to violence or disorder, or otherwise endangers facility, outside community or another person as defined in sections 3004(b), 3005(a) and 3023(a).

Disruptive Group 1 means any gang, other than a prison gang.

Distribution means the sale or unlawful dispersing, by an inmate or parolee, of any controlled substance; or the solicitation of or conspiring with others in arranging for, the introduction of controlled substances into any institution, camp, contract health facility, or community correctional facility for the purpose of sales or distribution.

Drug paraphernalia means any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming into the human body a controlled substance as identified in Health and Safety Code section 11007.

Drugs means substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, and as defined in Health and Safety Code section 11014.

Effective communication means providing the inmate, to the extent possible, the means to understand and participate in the disciplinary process to the best of their ability. This may be accomplished through reasonable accommodation or assignment of a staff assistant. If the inmate's Test of Adult Basic Education (TABE) score is 4.0 or lower, employees are required to query the inmate to determine whether or not assistance is needed to achieve effective communication. The employee is required to document on appropriate CDCR forms his/her determination of whether the inmate appeared to understand, the basis for that determination and how it was made. For contacts involving due process, employees shall give priority to the inmate's primary means of communication, which may include but is not limited to; auxiliary communication aids, sign language interpreter, and bilingual interpreter.

Escape History refers to any reliable information or inmate self-admission in the central file to an escape, attempted escape, walkaway, or plan to escape. The available information describing the circumstances of the escape or attempted escape shall be evaluated in determining the level of risk to correctional safety and security posed by the inmate.

Examinee means a person who voluntarily takes a polygraph examination.

Exceptional Circumstances means circumstances beyond the control of the department or the inmate that prevent the inmate or requested witnesses from participating in the disciplinary hearing within established time limitations. Examples of this as applied to an inmate would include a serious temporary mental or physical impairment verified in writing by a licensed clinical social worker, licensed psychologist, psychiatrist, or physician. Some examples of exceptional circumstances preventing staff witnesses, to include the reporting employee, from attending the disciplinary hearing would be extended sick leave, bereavement leave, personal emergency, or extended military duty. Exceptional circumstances, as described above, would allow for suspension of time limitations pending resolution of the instances.

Ex-Offender means a person previously convicted of a felony in California or any other state, or convicted of an offense in another state which would have been a felony if committed in California.

Execution Type Murder describes the circumstances or manner of a fatal offense in which the victim is bound, cuffed, gagged, blindfolded, or forced to assume a position from which the victim is unable to resist or flee; the victim is shot at close range; or the manner of death demonstrates that the victim had no opportunity to defend himself or herself nor to flee.

Facility Security Perimeter is any combination of living unit, work area and recreation area perimeters that is set aside to routinely restrict inmate movement based on custody level. This perimeter will contract and expand depending upon the weather, lighting conditions and hours of operation.

Federal Consecutive Prisoner means a California prisoner who is also under sentence of the United States and is confined in a federal correctional facility, and whose California term shall commence upon completion of the United States' sentence.

Field File means a working file maintained by a parole unit office containing information about a parolee and his/her current parole.

Firm means any individual, firm, partnership, corporation, association, joint venture or other legal entity permitted by law to practice the professions of architecture, landscape architecture, engineering, environmental services, land surveying or construction project management.

Force, as applied to escape or Attempted Escape, refers to physical contact or threat of physical harm against a person to enable or attempt the escape.

Frequent and Direct Supervision means that staff supervision of an inmate shall be sufficient to ensure that the inmate is present within the area permitted.

Friendly Witness means any witness who is not an adverse witness.

Gang means any ongoing formal or informal organization, association or group of three or more persons which has a common name or identifying sign or symbol whose members and/or associates, individually or collectively, engage or have engaged, on behalf of that organization, association or group, in two or more acts which include, planning, organizing threatening, financing, soliciting, or committing unlawful acts or acts of misconduct classified as serious pursuant to section 3315.

General Chrono means a CDC Form 128-B (Rev. 4–74) which is used to document information about inmates and inmate behavior. Such information may include, but is not limited to, documentation of enemies, records of disciplinary or classification matters, pay reductions or inability to satisfactorily perform a job, refusal to comply with grooming standards, removal from a program, records of parole or social service matters.

Goal means a numerically expressed disabled veteran business enterprise objective as set out in Public Contract Code section 10115(c), that awarding departments and contractors are required to make efforts to achieve.

Good Cause means a finding based upon a preponderance of the evidence that there is a factual basis and good reason for the decision made.

Good Faith Effort means a concerted effort on the part of a potential contractor to seek out and consider disabled veteran-owned and operated business enterprises as potential contractors, and/or subcontractors in order to meet the program participation goals.

Grievance means a complaint about a decision, action, or policy which an inmate, parolee or staff wish to have changed.

Harassment means a willful course of conduct directed at a specific person, group, or entity which seriously alarms, annoys, or terrorizes that person, group, or entity and which serves no legitimate purpose.

Hearing Agent means the parole and community services division employee responsible for application of specific procedures pertaining to the parole revocation hearing process; the primary liaison between the parole and community services division and the releasing authorities in matters and procedures pertaining to the parole revocation hearing process.

Hearing Committee means a panel of three certified Senior Hearing Officers comprised of: one Correctional Lieutenant or Correctional Counselor II, one Facility/Correctional Captain or Correctional Counselor III, and one staff member at the level of Associate Warden or above, or any combination thereof.

Hearing Coordinator means an employee assigned to coordinate the revocation process within an institution or a parole and community services division region.

High Notoriety describes an inmate who must be treated as a significant escape risk due to the unusual level of public panic that his or her escape would likely cause. The risk of public panic is based upon the nature or circumstance of the inmate's crime, the inmate's criminal history, the inmate's behavior in custody, and extensive or prolonged media coverage of the crime beyond the closest large city and its surrounding communities. A High Notoriety inmate is one who is perceived by the public to have criminal influence or access to significant amounts of money or drugs or power that may enable the inmate to escape, trigger a public disturbance, or victimize any person or a witness to their conviction offense. Bases for the High Notoriety designation include, but are not limited to, Execution Type Murder, Multiple Murders, mutilation of victims, an original sentence of Death, a sentence of Life Without the Possibility of Parole, a total term of 100 years or more.

Hold means to retain an inmate or parolee, who is under the director's jurisdiction, in custody at an institution or a local detention facility in response to the legal request of a law enforcement or correctional agency representative.

Immediate Family Members means legal spouse; registered domestic partner, natural parents; adoptive parents, if the adoption occurred and a family relationship existed prior to the inmate's incarceration; step-parents or foster parents; grandparents; natural, step, or foster brothers or sisters; the inmate's natural and adoptive children; grandchildren; and legal stepchildren of the inmate. Aunts, uncles and cousins are not immediate family members unless a verified foster relationship exists.

Incarcerating Jurisdiction means the jurisdiction where an Interstate or Western Interstate Corrections Compact, federal contract, federal concurrent, or concurrent prisoner is incarcerated.

Indecent Exposure means every person who willfully and lewdly, either: exposes his or her person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or, procures, counsels, or assists any person so to expose him or her self or take part in any model artist exhibition, or to make any other exhibition of him or her self to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts.

Indeterminate Sentence Law (ISL) means a person sentenced to prison for a crime committed on or before June 30, 1977, who would have been sentenced under Penal Code section 1170 if he/she had committed the crime on or after July 1, 1977.

Indigent Inmate means an inmate who is wholly without funds at the time they were eligible for withdrawal of funds for canteen purchases.

Inmate means a person under the jurisdiction of the director and not paroled. Inmate and prisoner are synonymous terms.

Inmate Match means a one-on-one match of a citizen volunteer and an inmate who receives few or no visits to establish a relationship which encourages positive inmate behavior and programming.

Institution Head means a warden, regional parole administrator, or designated manager of a facility housing inmates.

Interstate Unit means the office of the parole and community services division which coordinates the supervision of California cooperative parolee and the return of parolees-at-large from asylum states. The unit is responsible for Interstate and Western Interstate Corrections Compacts, federal contrast, federal concurrent, and consecutive prisoners and multijurisdiction parolees incarcerated in the prison of another jurisdiction.

Intoxicant not identified as a controlled substance means toluene or any bi-product i.e. paint thinners, paint, fingernail polish, lacquers, gasoline, kerosene, adhesives or other substance that markedly diminishes physical and/or mental control.

Joint Venture Employer (JVE) means any public entity, non-profit or for profit entity, organization, or business which contracts with the director for the purpose of employing inmate labor.

Joint Venture Program (JVP) means a contract entered into between the director and any public entity, nonprofit or for profit entity, organization, or business for the purpose of employing inmate labor.

Laboratory means any toxicological or forensic laboratory which has been recognized by the state, other certifying agency, or which is accepted by any local, county, or state prosecuting authority to provide evidence as to the presence of controlled substances in human body fluids or confirm that a substance is or contains any controlled substance.

Legal Status Sheet (LSS) means a CDC Form 188, Legal Status Summary, containing the commitment and release status of an inmate.

Life Prisoner means a prisoner serving a sentence of 15- or 25-years-to-life.

Lockdown means that a portion of the facility is affected by suspension of required programs or services, and inmates are not released except as determined by the facility administration on an individuals, case-by-case basis. As determined by the facility administration, under such circumstances only critical inmate workers in the affected housing units/sub-facilities will be permitted to attend to work assignments under escort, and all but essential functions are suspended in those affected housing units or sub-facilities, e.g., yard, canteen draws, religious services, and visiting.

Lockout means any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees.

Management Concern means a behavior observed or documented in the inmate's criminal history that demonstrates to a classification committee that the inmate has a propensity towards violence against self or others; has a history of inciting or pressuring others toward criminal behavior; preys on more vulnerable members of society; or portrays a level of criminal sophistication and/or access to large amounts of drugs, money, or power. This may include disruptive groups and prison gang members or affiliates.

Manuscript means any written, typed or printed articles of fiction and nonfiction; poems; essays; gags; plays; skits; paintings; sketches; drawings; or musical compositions created by an inmate.

Material Evidence means evidence which has a substantial bearing on matters in dispute and legitimate and effective influence on the decision of a case.

Minimum Eligible Parole Date (MEPD) means the earliest date on which an Indeterminate Sentence Law or life prisoner may legally be released on parole.

Multijurisdiction Parolee means any concurrent, California concurrent, California agency, or cooperative parolee.

Multijurisdiction Prisoner means any federal contract, federal concurrent, federal consecutive, concurrent, consecutive, California agency, Interstate or Western Interstate Corrections Compact prisoner.

Multiple Murders means the inmate killed or was involved in killing more than one victim during the commission of the crime for which the inmate is currently serving a Life term. This does not necessarily include an inmate who has killed more than one person during his or her criminal career.

Out-to-Court means an inmate is temporarily removed from a facility to be brought before a court to be tried for an offense, to be examined by a grand jury or magistrate, or for any other court proceedings.

Parole Agent means an employee and his/her supervisors in the department who are assigned to supervise those persons released from incarceration to the supervision of the parole and community services division.

Parole Hearings Division means the division of the department which is responsible for the department's administration of paroles for those persons committed to the department under Penal Code section 1170, except those who also meet the criteria of Penal Code section 2962.

Parole Violation means conduct by a parolee which violates the conditions of parole or otherwise provides good cause for the modification or revocation of parole.

Parole Violation Extension means an extension of return-to-custody time for a parolee in revoked status.

Parole Violator means a parolee who is found to have violated parole and who may be returned to custody pursuant to Penal Code section 3057.

Parolee means a felon or civil addict commitment released from confinement in state prison to supervision in the community.

Parolee-at-Large means an absconder from parole supervision, who is declared a fugitive by releasing authority action suspending parole.

Polygraph Examination means the procedure by which a polygraph examiner renders an opinion as to the veracity of statements made by an examinee.

Polygraph Examiner means a person who purports to be able to determine the truthfulness of statements through the use of a polygraph instrument.

Preprison Credit means credit for time in custody as certified by the court and provided for in Penal Code section 2900.5.

Principal means any person involved in the commission of a crime, felony or misdemeanor, whether they directly commit the act constituting the offense, or aid and abet in its commission, or not being present, have advised and encouraged its commission, or who, by threats, menaces, command or coercion, compel another to commit any crime.

Prison Gang means any gang which originated and has its roots within the department or any other prison system.

Prisoner means a person in custody of the director and not paroled. Prisoner and inmate are synonymous terms.

Probation Officer's Report means a CDC Form 174 (Rev. 3/87), Probation Officer's Report, prepared by the probation officer in the county where the offense was committed.

Program failure means any inmate who generates a significant disciplinary history within the last 180 days from the current date. A guilty finding for two serious Rules Violation Reports or one serious and two administrative Rules Violation Reports within that 180 day time period is reasonable evidence of a significant disciplinary history and may be considered a program failure.

Project, as used in sections 3475 through 3478, means a proposal of something to be done for which a contract has not yet been awarded.

Public Interest Case is a case identified by a Classification Staff Representative as involving a High Notoriety inmate who requires exceptional placement.

Public official means any person identified in Penal Code Section 76. CDCR staff are considered the staff of an exempt appointee of the Governor.

Received Date means the date an inmate is initially received into a facility of the department.

Receiving State means the state which supervises a cooperative parolee or a concurrent parolee.

Regional Parole Administrator means the department's administrator of a parole and community services division geographical region.

Relevant Evidence means evidence which tends to prove or disprove an issue or fact in dispute.

Religious Artifact means any bag, cross, medallion, totem, bible, pipe, or other item in which the possessor places religious or spiritual significance.

Religious Review Committee (RRC) means a committee formed and maintained at each institution that reviews and reaches a decision regarding requests for reasonable accommodation and/or access to religious services.

Responsible Bidder means, in addition to other State contracting requirements, a bidder who has either met the disabled veteran business enterprise goal or who has demonstrated that a good faith effort was made to meet the goal.

Restricted or controlled inmate movement means that the affected inmates are not permitted normal release schedules and that all or specified movement may require a greater degree of supervision than normal. Such restriction may include, but is not limited to controlled feeding, a section at a time, rather than the entire unit or sub-facility being released. Such restrictions do not constitute a State of Emergency as determined in Section 3383.

Review means formal investigation into facts related to appeal allegations, and documentation of the findings and the decision to grant or deny the appeal.

Room and Board means all that the department provides for the inmate's care, housing and retention.

Screening means evaluation by staff to ascertain that specified requirements or criteria are met.

Secure Perimeter means the largest Security Perimeter that physically retains inmates in custody on facility property.

Security Perimeter means any unbroken physical barrier or combination of physical barriers that restricts inmate movement to a contained area without being processed through a door, gate, or sallyport.

Serious injury means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring suturing; and disfigurement.

Sexual Disorderly Conduct means every person who touches, without exposing, his or her genitals, buttocks or breasts in a manner that demonstrates it is for the purpose of sexual arousal, gratification, annoyance, or offense, and that any reasonable person would consider this conduct offensive.

Small Business Firm means a business in which the principal office is located in California and the officers of such business are domiciled in California which is independently owned and operated and which is not dominant in its field of operation. The maximum dollar volume that a small business may generate shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries.

Special Assignment means a departmentally-approved special program, temporary or short-term assignment for departmental convenience, or medical or psychiatric treatment category with exceptional credit-earning provisions.

Street gang refers to a gang as defined herein except that it is not a prison gang.

Strike means any concerted act of more than 50 percent of the bargaining unit employees in a lawful refusal of such employees under applicable state or federal law to perform work or services for an employer, other than work stoppages based on conflicting union jurisdictions or work stoppages unauthorized by the proper union governing body.

Subcontractor means any person or entity that enters into a subcontract with a prime contractor for work, materials, supplies and/or labor.

Sweat Lodge means a native American Indian ceremonial hut.

Terminal illness means an incurable disease process with progression unresponsive to medical intervention where a medical doctor estimates that death will occur within a six-month period.

Time Computation means the department's uniform method for calculating an inmate's term and minimum and maximum release dates as governed by law.

Time Served means that time an inmate is imprisoned with the department between their received date and a given date.

Trade Paper means a publication that meets all of the following criteria: (1) has a business orientation relating to the trade or industry for which the advertisement is being placed; (2) is known and utilized by members of that trade or industry; (3) primarily offers articles, editorials (if any), and advertisements of business opportunities aimed at that trade or industry; and (4) is readily available within the geographical area for which the advertisement is placed and for which the services are to be performed.

Under the influence of alcohol, any drug, controlled substance, toluene or any combination thereof means being in a condition that he/she is unable to exercise care for his/her safety or the safety of others pursuant to Penal Code 647(f) and confirmed by a positive test from a departmentally approved testing method, to include field sobriety testing.

Unit Supervisor means a supervisor of case-carrying parole agents in the parole and community services division.

Unusual Violence describes the circumstances of an offense wherein the inmate acted to torture the victim over a period of time or intentionally made the victim endure great pain and suffering. A single act of stabbing, shooting, or beating of a victim does not necessarily qualify.

Vexatious Litigant means a person who does any of the following: (1) in the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (a) finally determined adversely to the person or; (b) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing; (2) after a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate in propria persona either; (a) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or; (b) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined; (3) in any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay; (4) has previously been declared to be a vexatious litigant by any state or federal court of record in any actions or proceeding based upon the same or substantially similar facts, transaction, or occurrence. Pursuant to In re Bittaker,Writs of Habeas Corpus are not included under vexatious litigation.

Work Change Area means a portal controlled by staff and/or locking gates that is used to control access and includes the area where staff search inmates prior to permitting inmates in or out of adjacent areas such as Prison Industry Authority yards.

Worktime Credit means credit towards a prisoner's sentence for satisfactory performance in work, training or education programs.

NOTE: Authority cited: Sections 2717.3, 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, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5054, 5068, and 7000 et seq., 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; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; and Section 11007, Health and Safety Code.

HISTORY:

1. Amendment of subsection (a)(19) filed 12-1-78 as an emergency; designated effective 1-1-79 (Register 78, No. 48). For prior history, see Register 77, No. 40.

2. Certificate of Compliance filed 2-22-79 (Register 79, No. 8).
3. Amendment filed 11-20-79 as an emergency; designated effective 1-1-80 (Register 79, No. 47). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 3-20-80.
4. Certificate of Compliance filed 2-15-80 (Register 80, No. 7).
5. Amendment filed 3-2-83: effective thirtieth day thereafter (Register 83, No. 12).
6. Change without regulatory effect repealing and adopting new section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).
7. Amendment filed 11-28-90 as an emergency; operative 11-28-90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 3-28-91 or emergency language will be repealed by operation of law on the following day.
8. Amendment adding definitions of ''disruptive group,'' ''gang,'' and ''prison gang'' filed 5-20-91; operative 6-19-91 (Register 91, No. 26).
9. Amendment adding definition for ''Media representative'' filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4).
10. Amendment adding definitions for ''Disciplinary Free,'' ''Inmate Match,'' and ''Special Assignment'' and amending Note filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
11. Amendment adding definition for ''Case records file'' and amendment of Note filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
12. Amendment adding definition for ''Detainer'' and amendment of Note filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
13. Amendment adding definitions for ''Received Date,'' ''Time Computation,'' and ''Time Served'' filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
14. Editorial correction of ''Firm'' and ''Grievance'' filed 12-20-91; operative 12-20-91 (Register 92, No. 4).
15. Amendment adding definition for ''Terminal illness'' filed 5-20-92; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9-17-92 or emergency language will be repealed by operation of law on the following day.
16. Editorial correction of printing error restoring inadvertently deleted definitions originally filed 12-20-91 (Register 92, No. 24).
17. Certificate of Compliance as to 12-20-91 order adding definition for ''case records file'' transmitted to OAL 4-15-92 and filed 5-27-92 (Register 92, No. 24).
18. Certificate of Compliance as to 12-29-91 order adding definitions for ''Disciplinary Free,'' ''Inmate Match,'' and ''Special Assignment'' transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
19. Certificate of Compliance as to 12-19-91 order adding definition of ''Detainer'' transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
20. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
21. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 6-2-92 (Register 92, No. 24).
22. Certificate of Compliance as to 5-20-92 order transmitted to OAL 9-9-92; disapproved by OAL and order of repeal of 5-20-92 order filed on 10-22-92 (Register 92, No. 43).
23. Amendment adding definition for ''Terminal illness'' refiled 10-23-92 as an emergency; operative 10-22-92 pursuant to Government Code section 11346.1(h) (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
24. Amendment adding ''Cumulative case summary,'' ''Chronological history,'' ''Legal status sheet,'' ''Probation officer's report'' and ''Criminal identification and investigation report'' and amendment of Note filed 11-5-92; operative 12-7-92 (Register 92, No. 45).
25. Change without regulatory effect amending ''Immediate Family Members'' filed 1-26-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 5).
26. Certificate of Compliance as to 10-23-92 order transmitted to OAL 12-18-92 and filed 2-3-93 (Register 93, No. 6).
27. Amendment adding ''Harassment'' and amendment of Note filed 7-29-93 as an emergency; operative 7-29-93 (Register 93, No. 31). A Certificate of Compliance must be transmitted to OAL 11-26-93 or emergency language will be repealed by operation of law on the following day.
28. Amendment filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
29. Amendment of ''Good Faith Effort,'' ''Minority Business Enterprise,'' ''Responsible Bidder'' and ''Women Business Enterprise'' and Note and new definitions ''Disabled Veteran Business Enterprise,'' ''Goal,'' ''Minority and/or Women and/or Disabled Veteran Business Enterprise focus paper,'' ''Minority and/or Women and/or Disabled Veteran Business Enterprise focus paper and trade paper,'' ''Project,'' ''Subcontractor,'' and ''Trade Paper'' filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day.
30. Definitions added for ''Chaplain,'' ''Religious Artifact,'' and ''Sweat Lodge'' and amendment of Note filed 11-1-93; operative 12-13-93 (Register 93, No. 45).
31. Amendment adding ''Ex-Offender'' filed 11-30-93; operative 12-30-93 (Register 93, No. 49).
32. Certificate of Compliance as to 7-29-93 order transmitted to OAL 11-18-93 and filed 12-31-93 (Register 94, No. 1).
33. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
34. Amendment of ''Inmate'', new definition ''Serious injury'', and amendment of Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
35. Amendment of ''Institution Head'' filed 9-13-96 as an emergency; operative 9-13-96. A Certificate of Compliance must be transmitted to OAL by 2-24-97 or emergency language will be repealed by operation of law on the following day.
36. Amendment adding definition of ''Certification'' filed 11-22-96 as an emergency; operative 11-22-96 (Register 96, No. 47). A Certificate of Compliance must be transmitted to OAL by 5-1-97 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
37. Certificate of Compliance as to 9-13-96 order transmitted to OAL 11-22-96 and filed 1-6-97 (Register 97, No. 2).
38. Certificate of Compliance as to 11-22-96 order, including amendment of definition of ''Certification,'' transmitted to OAL 3-20-97 and filed 5-1-97 (Register 97, No. 18).
39. Amendment adding definitions of ''Lockdown'' and ''Restricted or controlled inmate movement'' filed 10-16-97; operative 11-15-97 (Register 97, No. 42).
40. Amendment adding definition of ''Program failure'' filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-98 or emergency language will be repealed by operation of law on the following day.
41. Amendment adding definition of ''Vexatious Litigant'' and amending Note filed 11-12-97 as an emergency; operative 11-12-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-13-98 or emergency language will be repealed by operation of law on the following day.

42. Editorial correction of definition of ''Vexatious Litigant'' and Histories 40 and 41 (Register 98, No. 18).
43. Amendment adding definition of ''Vexatious Litigant'' and amending Note refiled 4-29-98 as an emergency; operative 4-29-98 (Register 98, No. 18). A Certificate of Compliance must be transmitted to OAL by 10-6-98 or emergency language will be repealed by operation of law on the following day.
44. Certificate of Compliance as to 10-16-97 order, including removal of definition of ''Program failure'' to section 3062(n), transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
45. Certificate of Compliance as to 4-29-98 order, including further amendment of definition of ''Vexatious Litigant'' and Note, transmitted to OAL 6-12-98 and filed 7-21-98 (Register 98, No. 30).
46. Amendment adding new definitions of ''Controlled Medication,'' ''Controlled Substance,'' ''Distribution'' and ''Laboratory'' and amendment of Note filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day,
47. Amendment filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
48. Amendment adding new definitions of ''Controlled Medication,'' ''Controlled Substance,'' ''Distribution'' and ''Laboratory'' and amendment of Note refiled 2-3-99 as an emergency; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
49. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).
50. Certificate of Compliance as to 2-3-99 order transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).
51. Amendment filed 3-27-2000 as an emergency; operative 3-27-2000 (Register 2000, No. 13). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 9-5-2000 or emergency language will be repealed by operation of law on the following day.
52. Amendment of definition of ''Chronological History'' filed 8-28-2000; operative 9-27-2000 (Register 2000, No. 35).
53. Certificate of Compliance as to 3-27-2000 order transmitted to OAL 9-5-2000; disapproval and order of repeal and deletion reinstating section as it existed prior to emergency amendment by operation of Government Code 11346.1(f) filed 10-18-2000 (Register 2000, No. 42).
54. Amendment filed 10-19-2000 deemed an emergency pursuant to Penal Code section 5058(e); operative 10-19-2000 (Register 2000, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-27-2001 or emergency language will be repealed by operation of law on the following day.
55. Amendment adding definition of ''General Chrono'' filed 11-16-2000; operative 12-16-2000 (Register 2000, No. 46).
56. Certificate of Compliance as to 10-19-2000 order, including further amendment of definitions of ''Execution Type Murder,'' ''High Notoriety'' and ''Public Interest Case,'' transmitted to OAL 3-27-2001 and filed 5-3-2001 (Register 2001, No. 18).
57. Amendment of definitions of ''Firm'' and ''Small Business Firm'' and amendment of Note filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).
58. Amendment adding definition of ''Street gang'' and amendment of Note filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
59. Certificate of Compliance as to 8-27-2002 order transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).
60. Amendment adding definitions of ''Program failure'' and ''Significant work related disciplinary history'' filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
61. Amendment adding definitions of ''Program failure'' and ''Significant work related disciplinary history'' refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
62. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
63. New definition of ''Religious Review Committee (RRC)'' filed 1-17-2006 as an emergency; operative 1-17-2006 (Register 2006, No. 3). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-26-2006 or emergency language will be repealed by operation of law on the following day.
64. Amendment of definition of ''Program failure'' filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).
65. Certificate of Compliance as to 1-17-2006 order transmitted to OAL 6-22-2006 and filed 7-27-2006 (Register 2006, No. 30).
66. Change without regulatory effect amending division heading and chapter heading filed 12-4-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 49).
67. New definitions of ''Indecent Exposure'' and ''Sexual Disorderly Conduct'' and amendment of Note filed 2-23-2007 as an emergency; operative 2-23-2007 (Register 2007, No. 8). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-2-2007 or emergency language will be repealed by operation of law on the following day.
68. Certificate of Compliance as to 2-23-2007 order transmitted to OAL 7-27-2007 and filed 9-5-2007 (Register 2007, No. 36).
69. New definitions of ''Non-serious offender'' and ''Non-violent offender'' filed 10-1-2007 as an emergency; operative 10-1-2007 (Register 2007, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-10-2008 or emergency language will be repealed by operation of law on the following day.
70. Amendment of definition of ''Immediate Family Members'' and amendment of Note filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).
71. New definitions of ''Non-serious offender'' and ''Non-violent offender'' refiled 2-25-2008 as an emergency; operative 2-25-2008 (Register 2008, No. 9). A Certificate of Compliance must be transmitted to OAL by 5-26-2008 or emergency language will be repealed by operation of law on the following day.
72. Reinstatement of section as it existed prior to 10-1-2007 emergency amendment by operation of Government Code section 11346.1(f) (Register 2008, No. 22).
73. New definitions of ''Behavior Management Unit'' and ''Disruptive Behavior'' filed 7-8-2008 as an emergency; operative 7-8-2008 (Register 2008, No. 28). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 12-15-2008 or emergency language will be repealed by operation of law on the following day.
74. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).
75. Repealer of definition of ''Media representative'' filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3000.5. Rules of Construction.

The following rules of construction apply to these regulations, except where otherwise noted:

(a) The enumeration of some criteria for the making of discretionary decisions does not prohibit the application of other criteria reasonably related to the decision being made.

(b) The order in which criteria are listed does not indicate their relative weight or importance.

(c) ''Shall'' is mandatory, ''should'' is advisory, and ''may'' is permissive.

(d) The past, present, or future tense includes the others.

(e) The masculine gender includes the feminine gender; the singular includes the plural.

(f) The time limits specified in these regulations do not create a right to have the specified action taken within the time limits. The time limits are directory, and the failure to meet them does not preclude taking the specified action beyond the time limits.

NOTE: Authority cited: section 5058 and Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 5054, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).

3001. Subject to Regulations.

Regardless of commitment circumstances, every person confined or residing in facilities of the department is subject to the rules and regulations of the director, and to the procedures established by the warden, superintendent, or parole region administrator responsible for the operation of that facility. Persons on parole or civil addict outpatient status are subject to such director's rules, regulations and parole region procedures as may be applicable to such persons.

3001.5. Assignment to Caseworker.

Upon reception at a facility, each inmate shall be assigned a caseworker.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

HISTORY:

1. New section filed 10-15-92; operative 11-16-92 (Register 92, No. 42).

3002. Notice of Program, Behavioral, and Participation Expectations.

(a) Within 14 days of reception by the Department of Corrections or upon return to confinement in a departmental institution or facility, every inmate or parolee shall be issued a copy of the Rules and Regulations of the Director of Corrections and copies of all rule changes that have occurred since the last complete reprinting and reissue of the rules and regulations. Each inmate and parolee shall sign a receipt for the rules. The receipt shall be filed as a permanent record in the inmate's central file. In addition:

(1) Spanish language copies of the rules and regulations of the director shall be maintained at each reception center, institution and facility where inmates are confined. Notice shall be given in Spanish that a Spanish version of the rules is available for inspection. These rules shall be made available for review by Spanish speaking inmates who cannot read English.

(2) Within 14 days of transfer to another departmental institution or facility, the new arrival shall be given a written summary of local procedures governing the conduct and activities of inmates confined at that location and a summary of the range of work and training programs offered by and available at that institution or facility. The summary or summaries shall also include: procedures governing mail and visiting, the inmate's right to appeal and appeal procedures, the facility's basic daily schedule, and where and how additional procedural information of interest may be obtained. New arrivals shall also be given verbal staff instructions regarding the procedures.

Staff instructions shall also be given to newly received inmates regarding the possibility of receiving a one-third reduction of their sentence or minimum eligible parole date for refraining from acts or activities of misbehavior and by participating in assigned work and program activities.

(b) During regularly scheduled institution and reception center inmate orientation sessions each inmate or parolee shall be advised of the following:

(1) The ability to earn credits by participating in assigned work and program activities; and,

(2) The availability of work and program activities; and,

(3) The possible loss of credits resulting from acts or activities of misbehavior; and,

(4) The availability of and procedures for access to health care including daily sick call procedures.

(5) Reception centers shall incorporate the inmate's acknowledgement of the receipt of the summary of reception center work and program activities in the same form used as a receipt for issue of the rules and regulations to the inmate.

(6) When inmates are placed in specialized housing with specialized or limited program options and opportunities to participate, the initial classification committee shall explain the options and opportunities available to the inmate within that specialized unit. A copy of the committee's chrono reflecting the discussion shall be given to the inmate and a copy placed in the inmate's central file.

(7) The facility location where Board of Prison Terms' Rules may be reviewed by the inmate.

(8) Available institution social services.

(c) The issuance of rules and regulations and program information, summaries, and the inmate's receipt for same is required in order to comply with Sections 2080 and 2930 of the Penal Code. An inmate's refusal to sign a receipt for the issue of rules and regulations, work and program summaries, or work and program agreements or understandings, shall be noted by staff, and the receipt shall be filed in the inmate's central file. Refusal or failure to acknowledge the receipt of information shall not relieve the inmate from any responsibility to behave and participate as expected nor from the consequence for misbehavior or refusal or failure to participate.

(d) Each institution and reception center shall provide a means of advising inmates who cannot read English of the expectations contained in this section. The provisions shall include communication of the expectations to those inmates who also have impaired hearing.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2080, 2930, 2931 and 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. Amendment filed 5-4-83; designated effective 6-1-83 pursuant to Government Code section 11346.2(d) (Register 83, No. 19).
4. Amendment of subsections (a), (b) and new subsection (d) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
5. Editorial correction of printing errors in subsections (a)(1) and (b)(3) (Register 92, No. 5).
6. New subsections (b)(7)–(8) filed 10-15-92; operative 11-16-92 (Register 92, No. 42).

3003. Threats Against Public Officials.

Any inmate away from a secure perimeter facility or parolee who makes a written or verbal threat against the life of any official specified in Penal Code section 76 with the intent and apparent ability to carry out the threat shall immediately be placed in custody at a jail or secure perimeter facility pending disposition of the charges.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 76, 3056, 5054, and 6253, Penal Code.

HISTORY:

1. New section filed 10-18-93; operative 11-17-93 (Register 93, No. 43). For prior history, see Register 89, No. 41.

3004. Rights and Respect of Others.

(a) Inmates and parolees have the right to be treated respectfully, impartially, and fairly by all employees. Inmates and

parolees have the responsibility to treat others in the same manner. Employees and inmates may use first names in conversation with each other when it is mutually acceptable to both parties.

(b) Inmates, parolees and employees will not openly display disrespect or contempt for others in any manner intended to or reasonably likely to disrupt orderly operations within the institutions or to incite or provoke violence.

(c) Inmates, parolees and employees will not subject other persons to any form of discrimination because of race, religion, nationality, sex, political belief, age, or physical or mental handicap.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment of subsection (a) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. New subsection (c) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).

3005. Conduct.

(a) Inmates and parolees shall obey all laws, regulations, and local procedures, and refrain from behavior which might lead to violence or disorder, or otherwise endangers facility, outside community or another person.

(b) Obeying Orders. Inmates and parolees must promptly and courteously obey written and verbal orders and instructions from department staff, and from employees of other agencies with authorized responsibility for the custody and supervision of inmates and parolees.

(c) Refusing to Accept Assigned Housing. Inmates shall not refuse to accept a housing assignment such as but not limited to, an integrated housing assignment or a double cell assignment, when case factors do not preclude such.

(d) Force or Violence.

(1) Inmates shall not willfully commit or assist another person in the commission of an assault or battery to any person or persons, nor attempt or threaten the use of force or violence upon another person.

(2) Inmates shall not, with the intent to cause a riot, willfully engage in conduct that urges a riot, or urges others to commit acts of force or violence at a time and place under circumstances that produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property.

(3) Inmates shall not participate in a riot, rout, or unlawful assembly.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 242, 295–300.3, 404–409, 2931 and 5054, Penal Code.

HISTORY:

1. Repealer and new section (b) filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. New subsection (c) filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. Amendment of subsection (c) filed 6-30-77 as an emergency; effective upon filing (Register 77, No. 27).
4. Amendment of subsection (c) filed 9-29-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 40).
5. Amendment filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
6. Change without regulatory effect amending subsection (a) filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 31).
7. Amendment of subsection (c) filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
8. Amendment of Note filed 9-20-99 as an emergency; operative 9-20-99 (Register 99, No. 39). Pursuant to Penal Code section 5058(e) a Certificate of Compliance must be transmitted to OAL by 2-28-2000 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 9-20-99 order transmitted to OAL 1-14-2000 and filed 2-22-2000 (Register 2000, No. 8).
10. Amendment of subsection (c) and amendment of Note filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (c) and amendment of Note refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
13. New subsection (c) and subsection relettering filed 12-28-2007; operative 12-28-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 52).
14. Amendment of subsection (d), new subsections (d)(1)–(3) and amendment of Note filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3006. Contraband.

Inmates may possess only the personal property, materials, supplies, items, commodities and substances, up to the maximum amount, received or obtained from authorized sources, as permitted in these regulations. Possession of contraband as defined in section 3000 may result in disciplinary action and confiscation of the contraband.

(a) Dangerous Property. Inmates may not possess or have under their control any weapons, explosives, explosive making material, poisons or any destructive devices, nor shall they possess or assist in circulating any writing or voice recording which describes the making of any weapons, explosives, poisons, or destructive devices.

(b) Money. Inmates may not possess money. If an inmate finds money and voluntarily surrenders it, and the rightful owner does not claim it within 30 days, it will be credited to the inmate's trust account.

(c) Except as authorized by the institution head, inmates shall not possess or have under their control any matter which contains or concerns any of the following:

(1) Any matter of a character tending to incite murder; arson; riot; or any form of violence or physical harm to any person, or any ethnic, gender, racial, religious, or other group.

(2) Blackmail or extortion.

(3) Contraband, or sending or receiving contraband.

(4) Plans to escape or assist in an escape.

(5) Plans to disrupt the order, or breach the security, of any facility.

(6) Plans for activities which violate the law, these regulations, or local procedures.

(7) Coded messages.

(8) A description of the making of any weapon, explosive, poison or destructive device.

(9) Illustrations, explanations, and/or descriptions of how to sabotage or disrupt computers, communications, or electronics.

(10) Diskettes.

(11) Catalogs, advertisements, brochures, and material whose primary purpose is to sell a product(s) or service(s) and when taken as a whole, lacks serious literary, artistic, political, educational, or scientific value.

(12) Maps depicting any area within a ten mile radius of a facility.

(13) Gambling or a lottery.

(14) Markings on the envelope which are obscene in nature as described in subsection (15) below.

(15) Obscene material and mail containing information concerning where, how, or from whom obscene material may be obtained.

(A) Obscene material means material taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest; and is material which taken as a whole, depicts or describes sexual conduct; and which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(B) When it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it appeals to deviant sexual groups.

(C) Material subject to the tests in paragraphs (A) or (B) includes, but is not limited to material that:

(1) Depicts, displays, or describes penetration of the vagina or anus, or contact between the mouth and the genitals.

(2) Depicts, displays, or describes bestiality, sadomasochism, or an excretory function including urination, defecation, or semen.

(3) Portrays the nudity of a minor, or person who appears to be under 18 years old.

(4) Portrays conduct which appears to be non-consensual behavior.

(5) Portrays conduct which is or appears to be forceful, threatening, or violent.

(6) Portrays conduct where one of the participants is a minor, or appears to be under 18 years old.

(16) Material that is reasonably deemed to be a threat to legitimate penalogical interests.

(17) Sexually explicit images that depict frontal nudity in the form of personal photographs, drawings, magazines, or other pictorial format.

(A) Sexually explicit material shall be defined as material that shows the frontal nudity of either gender, including the exposed female breast(s) and/or the genitalia of either gender.

(B) The following sexually explicit material shall be allowed:

1. Departmentally purchased or acquired educational, medical/scientific, or artistic materials, such as books or guides purchased by the department for inclusion in institution libraries and/or educational areas; or

2. Educational, medical/scientific, or artistic materials, including, but not limited to, anatomy medical reference books, general practitioner reference books and/or guides, National Geographic, or artistic reference material depicting historical, modern, and/or post modern era art, purchased or possessed by inmates and approved by the institution head or their designee on a case-by-case basis.

(18) Any tobacco product, or tobacco cessation product, that contains nicotine.

(19) Cellular telephone or other electronic communications device.

(d) Anything in the possession of an inmate which is not contraband but will, if retained in possession of the inmate, present a serious threat to facility security or the safety of inmates and staff, shall be controlled by staff to the degree necessary to eliminate the threat.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601, 2772, 2790, 4574, 5030.1, 5054 and 5057, Penal Code.

HISTORY:

1. Amendment of subsection (a) filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).
3. Editorial correction of printing error in subsection (a) (Register 92, No. 5).
4. New subsection (c) and subsection relettering, renumbering and amendment of former subsections 3136 (a)–(h) to subsections 3006(c)(1)–(8), new subsections 3006(c)(9)–(15), and amendment of newly designated subsection (d) and Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
5. New subsection (c) and subsection relettering, renumbering and amendment of former subsections 3136(a)–(h) to subsections 3006(c)(1)–(8), new subsections 3006(c)(9)–(15), and amendment of newly designated subsection (d) and Note refiled 6-13-95 as an emergency; operative 6-13-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 11-20-95 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 12-27-95 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 6-13-95 order transmitted to OAL 11-9-95; disapproved by OAL and order of repeal as to 6-13-95 order filed on 12-27-95 (Register 95, No. 52).
7. Amendment of section and Note filed 12-27-95 as an emergency pursuant to Government Code section 11346.1; operative 12-27-95 (Register 95, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-25-96 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-27-95 order including amendment of subsections (c), (c)(3), and (c)(9), new subsection (c)(10) and subsection renumbering, amendment of newly designated subsections (c)(11), (c)(14) and (c)(15), new subsections (c)(15)(A)–(c)(15)(C), amendment of newly designated subsections (c)(15)(C)(1) and subsection renumbering, amendment of subsection (d) and Note transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).
9. New subsections (c)(17)–(c)(17)(B)2. filed 9-30-2002 as an emergency pursuant to Penal Code section 5058.3; operative 9-30-2002 (Register 2002, No. 40). A Certificate of Compliance must be transmitted to OAL by 3-10-2003 pursuant to Penal Code section 5058.3 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 9-30-2002 order transmitted to OAL 2-3-2003 and filed 3-18-2003 (Register 2003, No. 12).
11. Amendment of first paragraph filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).
13. New subsection (c)(18) and amendment of Note filed 7-7-2005 as an emergency; operative 7-7-2005 (Register 2005, No. 27). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 12-14-2005 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 7-7-2005 order transmitted to OAL 12-13-2005 and filed 1-26-2005 (Register 2006, No. 4).
15. New subsection (c)(19) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3007. Sexual Behavior.

Inmates may not participate in illegal sexual acts. Inmates are specifically excluded in laws, which remove legal restraints from acts between consenting adults. Inmates must avoid deliberately placing themselves in situations and behaving in a manner, which is designed to encourage illegal sexual acts.

Comment: Former DR-1105, sexual behavior.

3008. Obscenity.

Inmates shall not openly or publicly display photographs, pictures, drawings, or other pictorial representations of persons engaged in sexual acts, actual or simulated, masturbation, excre-

tory functions or lewd exhibitions of the genitals which are obscene as defined in Section 311 of the Penal Code.

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

HISTORY:
1. Amendment filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Certificate of Compliance as to 12-27-95 order including amendment of section and Note transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).
3. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3009. Gambling.

Inmates shall not participate in any form of gambling or bookmaking. Comment: Former DR-1107, gambling and bookmaking.

HISTORY:
1. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3010. Gifts and Gratuities.

Inmates may not ask for or accept any gift of money, property, material or substance from institution visitors, employees or other persons, and may not give any person a gift or promise of one, except as provided for by law, approved institution procedures, or as specifically authorized by the warden or superintendent. Institution procedures established under this section should be directed toward control of property, safety of persons and institution security.

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).

3011. Property.

Inmates shall not intentionally destroy, damage, or deface, state property or another person's property. To do so shall be cause for disciplinary action and the inmate may be charged for the cost of repair or replacement, including materials. Intentional destruction of property may result in a credit loss as specified in Section 3323(c)(3), 3323(d)(6), or 3323(g)(1) of these regulations. Intentional damage to property valued at four hundred dollars or more may result in criminal prosecution and an additional term of imprisonment in addition to any credit loss resulting from the disciplinary action. Intentional damage to property valued at less than four hundred dollars may result in a misdemeanor conviction in addition to any credit loss resulting from the disciplinary action.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 594(a), 2932, 4600 and 5054, Penal Code.

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 12-1-78 as an emergency; designated effective 1-1-79 (Register 78, No. 48).
3. Certificate of Compliance filed 2-22-79 (Register 79, No. 8).
4. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
5. OAL Notice of Erroneous Filing filed 7-29-85; purported Order of Repeal of Section 3011(a) filed in error on 6-3-85 is null and void and text of subsection (a) as filed with Secretary of State on 12-1-78 remains in effect uninterrupted (Register 85, No. 31).
6. Amendment filed 12-16-88; operative 1-15-89 (Register 88, No. 53).
7. Change without regulatory effect amending section filed 11-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 47).
8. Amendment of section and Note filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).
9. Amendment of section and Note filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3012. Theft.

Inmates shall not obtain anything by theft, fraud or dishonesty. Comment: Former DR-1110, stealing and dealing.

HISTORY:
1. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3013. Unlawful Influence.

Inmates shall not attempt to gain special consideration or favor from other inmates, employees, institution visitors or any other person by the use of bribery, threat or other unlawful means. Comment: Former DR-1111, improper influence.

HISTORY:
1. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3014. Calls and Passes.

Inmates must respond promptly to notices given in writing, announced over the public address system, or by any other authorized means.

Comment: Former DR-1113, answering calls and passes.

HISTORY:
1. Repealer of section 3014 and renumbering of section 3015 to section 3014 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40). For former section 3014, see Register 77, No. 9.

3015. Unauthorized Areas and Facility Boundaries.

(a) Every area of a facility which is out of bounds to inmates or which is only out of bounds at specified times shall be clearly designated. Inmates shall not enter such areas unless specifically authorized to do so by staff.

(b) Inmates assigned to a work detail or project off their facility's property shall not go beyond the geographical limits established by their staff escort.

(c) Except as provided in sections 3080 through 3083, Title 15, California Code of Regulations, inmates shall not travel past the boundaries of a facility unless escorted by authorized staff. Inmates shall not be escorted from a facility except in an emergency or when authorized for the purpose of a work or project assignment, transfer to another facility, or temporary community leave or removal.

(d) Inmates shall not escape, attempt to escape or conspire with others to escape from the custody of the department. Inmates shall not solicit or coerce others to aid or assist in an escape.

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

HISTORY:
1. Renumbering of Section 3016 to Section 3015 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment of section heading and newly designated subsection (a), new subsection (b), renumbering and amendment of former section 3444 to new subsection (c), and new Note filed 10-27-93; operative 11-26-93 (Register 93, No. 44).
3. New subsection (d) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3016. Controlled Substances, Drug Paraphernalia, and Distribution.

(a) Inmates shall not inhale, ingest, inject, or otherwise introduce into their body; use, possess, manufacture, or have under their control any controlled substance, medication, or alcohol, except as specifically authorized by the institution's/facility's health care staff.

(b) Inmates shall not possess, exchange, manufacture, or have under their control any paraphernalia as defined by Health and Safety Code section 11014.5, or device related to the use, injection,

or manufacture of any controlled substance, except as specifically authorized by the institution's/facility's health care staff.

(c) Inmates shall not distribute, as defined in section 3000, any controlled substance.

(d) Inmates shall not possess medication in quantities exceeding the dosage specifically authorized by the institution's/facility's health care staff, nor may an inmate possess medication prescribed to another inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2931, 4573, 4573.6 and 5054, Penal Code; and Sections 11014.5, 11350–11383, Health and Safety Code.

HISTORY:

1. Renumbering of Section 3017 to Section 3016 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
3. Amendment filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
6. Amendment filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2-21-96 order including amendment of section heading and section transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
8. Amendment of section heading, section and Note filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day,
9. Amendment of section heading, section and Note refiled 2-3-99 as an emergency; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 2-3-99 order transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).
11. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3017. Responsibility for Counts.

Inmates must be present at designated times and places for counts, and must present themselves for count in the manner set forth in institution procedures.

Comment: Former DR-1116, responsibility for count.

HISTORY:

1. Renumbering of section 3018 to section 3017 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).

3018. Telephones.

Inmates may not use institution telephones or public coin operated telephones located on institution property except as specifically authorized and as described in section 3282. An inmate must identify himself or herself as an inmate when answering or making an interinstitution telephone call.

Comment: Former DR-1117, use of telephones.

HISTORY:

1. Renumbering of section 3019 to section 3018 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).

3019. Identification.

Inmates must carry on their person any identification and privilege card issued for identification purposes, in accordance with institution procedures. Inmates must not mutilate or destroy such cards nor possess the card of another inmate. An inmate must surrender his or her identification card or cards at the request of any employee. Unless a card is being officially recalled, the card(s) will be promptly returned to the inmate when staff's use of the card has been accomplished. An inmate may be charged for replacement of a deliberately mutilated, lost or destroyed card in accordance with section 3011. An inmate may also be charged for replacement of a card if a physical change in the inmate's appearance is a matter of his or her own choice and the change occurs within six months of the issue of a new or replacement card. An inmate will not be charged for replacement of a card because of a physical change in the inmate's appearance over which the inmate has no control.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Renumbering of section 3020 to section 3019 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).

3020. Inmate Activity Groups.

(a) Inmates may not establish or participate in the establishment or activities of any inmate club, inmate activity group, or any association or organization of inmates within the institution except as specifically approved by the warden or superintendent, as provided in Sections 3233–3235.

(b) Inmate participation in an approved activity group will not be cause to deny or restrict regular correspondence and visitation rights with persons who are approved to attend and participate in such inside inmate group activities.

Comment: Former DR-1119, unauthorized organizations.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2079 and 5054, Penal Code.

HISTORY:

1. Amendment of subsection (a) filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Renumbering of section 3021 to section 3020 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. Amendment of subsection (a) filed 2-22-79; effective thirtieth day thereafter (Register 79, No. 8).
4. Amendment of subsection (b) filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).

3021. Falsification of Records or Documents.

Inmates and parolees must not intentionally enter or introduce false information into or upon any record or document maintained by the Department of Corrections. Inmates and parolees must not destroy, delete, remove or otherwise intentionally cause any record or document maintained by the Department of Corrections to be a false or incomplete record or document by reason of such action.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Renumbering of section 3022 to section 3021 filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).

3022. Equality of Inmates.

No inmate or group of inmates will be given or be permitted to assume control over other inmates. This does not preclude the use

of inmates as aides or lead persons on work and training assignments when the activity is directed and supervised by responsible employees.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).

3023. Gang Activity.

(a) Inmates and parolees shall not knowingly promote, further or assist any gang as defined in section 3000.

(b) Gangs, as defined in section 3000, present a serious threat to the safety and security of California prisons.

(c) For the purpose of specific gang participant identification, the department categorizes gangs into prison gangs and disruptive groups as defined in section 3000.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 186.22 and 5054, Penal Code.

HISTORY:

1. New section filed 5-20-91; operative 6-19-91 (Register 91, No. 26).
2. New subsection (b) and subsection relettering filed 1-21-99 as an emergency; operative 1-21-99 (Register 99, No. 4). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-30-99 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-21-99 order transmitted to OAL 6-30-99 and filed 8-12-99 (Register 99, No. 33).

3024. Business Dealings by Inmates.

(a) Inmates shall not engage actively in a business or profession except as authorized by the institution head or as provided in Section 3104. For the purpose of this section, a business is defined as any revenue generating or profit making activity. An inmate who is engaged in a business or profession prior to commitment to the department shall assign authority for the operation of such business or profession to a person in the community.

(b) Inmate mail may be rejected by an institution head or designee for reasons, which include, but are not limited to, the mail relates the direction of an inmate's business or profession. This does not, however, prohibit mail necessary to enable an inmate to protect property and funds that were legitimately the inmate's at the time of commitment.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 5054, Penal Code; *Turner* v. *Safley* 482 US 78 (1987).

HISTORY:

1. New section filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 30).
3. New section filed 7-25-95 as an emergency; operative 7-25-95 (Register 95, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-25-95 order including amendment of section transmitted to OAL 11-17-95 and filed 1-3-96 (Register 96, No. 1).

Article 1.5. DNA and Forensic Identification

3025. Department of Justice DNA and Forensic Identification Database and Data Bank Program.

(a) All inmates and parolees, including juveniles, committed to the custody of the department after having been convicted of, found guilty of, having pled guilty or no contest to, or having been found not guilty by reason of insanity for, any offense listed in Penal Code (PC) section 296(a), or whose records indicate a prior conviction for such an offense, shall provide all of the following required specimens, to be forwarded to the Department of Justice (DOJ) as soon as administratively practicable:

(1) Buccal Swab Samples.

(2) Right Thumbprint Impressions.

(3) Full Right and Left Palm Print Impressions.

(4) Writer's Palm Print Impression.

(5) Any Blood Specimens or other Biological Samples required.

(b) The listed specimens shall be provided under the following circumstances, unless the inmate's central file or other records indicate that all required specimens have already been obtained:

(1) Whether or not the offense predated the enactment of the DNA and Forensic Identification Database and Data Bank Act of 1998, or any amendments to it; including the DNA, Fingerprint, Unresolved Crime and Innocence Protection Act.

(2) Whether or not the court advised the convicted person of this requirement;

(3) If the inmate or parolee was convicted of a state or federal offense in another state which would constitute an offense as listed in PC section 296(a);

(4) If notification is received from the DOJ that an inmate's or parolee's specimens already taken for any purpose are not usable for any reason.

(c) DOJ DNA laboratory may obtain blood specimens from qualifying persons as defined in PC section 296(a) when it is determined that such specimens are necessary in a particular case or would aid the DOJ in obtaining an accurate forensic DNA profile for identification purposes. Cases requiring blood specimens include, but are not limited to, buccal swab samples that cannot be properly identified or analyzed by DOJ, or if the inmate refuses to submit to DNA buccal swab collection, and/or print impressions.

(d) Newly committed inmates and persons returned to custody based upon a violation of parole, furlough or any other type of release, who meet the criteria established in PC section 296(a), shall, provide the required specimens, samples and print impressions during the reception center process or reasonably promptly after their transfer to an institution/facility.

(e) Parolees identified as meeting the criteria established in PC section 269(a) for present and past qualifying offenses, shall provide the required specimens, samples and print impressions within five days of notification by the court, or by parole unit staff at a collection location designated in accordance with PC section 296.1(a)(3)(B).

(f) Only medical staff trained and certified to do so shall draw blood for collection of specimens; in accordance with standard medical practices. The specimens, samples, and print impressions collected pursuant to Penal Code, Part 1, Title 9, Chapter 6, Articles 1 through 7 (sections 295 et seq.), shall be forwarded promptly to the DOJ. The collection kit, including all blood specimen vials, buccal swab collectors, mailing tubes, labels and instructions for the collection shall be provided by the DOJ. A right thumbprint, a full palm print impression of each hand, and the writers palm print impression shall be taken on forms prescribed by the DOJ. The palm print forms shall be forwarded to and maintained by the Bureau of Criminal Identification and Information of the DOJ. If a blood specimen is necessary pursuant to subsection (c), right thumbprints shall be taken at the time of the collection of samples and specimens, and shall be placed on the samples and specimen containers and forms as directed by DOJ. The samples, specimens and forms shall be forwarded to and maintained by the DNA Laboratory of the DOJ.

(g) Only trained, designated medical, custody, parole staff and/or local law enforcement shall handle forms or specimens after their collection.

(h) If a person has been convicted of a state or federal offense which would constitute an offense as listed in PC section 296(a)

and is transferred or paroled from another state into California, an agreement to provide these specimens shall be made a condition of acceptance for supervision in this state.

(i) Any inmate or parolee who refuses to provide any or all of the following; blood specimens, buccal swab samples, or thumb or palm print impressions as required by Penal Code, Part 1, Title 9, Chapter 6, Articles 1 through 7 (sections 295 et seq.), after he or she has received written notice that he or she is required to provide specimens, samples, and print impressions is guilty of a misdemeanor. An inmate who refuses shall also be subject to progressive discipline pursuant to California Code of Regulations, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5 (section 3310 et seq.).

(j) The use of reasonable force, as defined in section 3268(a)(1), shall not be authorized without the prior written authorization at the level of Facility/Correctional Captain or higher, or the administrative officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impressions as required by law, and that he or she refused to do so.

(k) The use of reasonable force, as defined in section 3268(a)(1), shall be preceded by efforts to secure voluntary compliance.

(*l*) If the use of reasonable force to obtain DNA includes a cell extraction, the extraction shall be videotaped. The videotaping shall depict all correctional personnel directly involved and the advisement to the inmate that the requisite specimen, sample or impressions is required. All incidents that required the use of reasonable force to obtain DNA samples shall be tracked and maintained by the institutional DNA coordinator and forwarded to the assistant director, Law Enforcement Investigative Unit (LEIU).

(m) Any person described in section 3025(a), pursuant to PC section 298.2, who engages or attempts to engage in any of the following acts is guilty of a felony:

(1) Knowingly aids in the wrongful collection of a required specimen, sample, or print impression, with the intent to deceive as to the origin of a DNA profile.

(2) Knowingly tampers with any specimen, sample, print impressions, or the collection container, with the intent to deceive as to the identification of the person.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295–300.3 and 5054, Penal Code.

HISTORY:

1. New article 1.5 (section 3025) and section filed 9-20-99 as an emergency; operative 9-20-99 (Register 99, No. 39). Pursuant to Penal Code section 5058(e) a Certificate of Compliance must be transmitted to OAL by 2-28-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-20-99 order transmitted to OAL 1-14-2000 and filed 2-22-2000 (Register 2000, No. 8).
3. Amendment filed 10-4-2002 as an emergency pursuant to a certificate of operational necessity under Penal Code section 5058.3; operative 10-4-2002 (Register 2002, No. 40). Pursuant to Penal Code section 5058.3, this filing is deemed an emergency and a Certificate of Compliance must be transmitted to OAL by 3-13-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-4-2002 order, including further amendment of subsections (e) and (i), transmitted to OAL 3-12-2003 and filed 4-8-2003 (Register 2003, No. 15).
5. Amendment filed 8-23-2005; operative 8-23-2005. Submitted to OAL for printing only pursuant to Penal Code section 295(h)(2) (Register 2005, No. 34).

Article 2. State-Issued Inmate Clothing and Linen

3030. Issuance and Possession of State Clothing and Linen.

(a) Each inmate shall be provided state clothing and linen pursuant to this section. Each item issued shall remain state property for which the inmate shall be accountable. State items shall be recalled and exchanged as directed by the institution head.

(b) Inmates shall possess only those items of state clothing and linen issued to them. Below are the standard inmate issues:

(1) Each inmate shall be issued:

(A) Work shoes, one pair.

(B) Sheets, two.

(C) Pillow case, one.

(D) Towels, two.

(E) Blankets, two.

(F) The distinctive, protective and/or extra clothing required by the climate and/or the inmate's job assignment.

(2) In addition to the items in (1) above, each male inmate shall be issued:

(A) Jeans, blue denim, three pair.

(B) Shirts, blue chambray, three.

(C) Undershirts, white, four.

(D) Socks, six pair.

(E) Undershorts, white, four pair.

(F) Jacket, blue denim, one.

(G) Belt, web, one.

(3) In addition to the items in (1) above, each female inmate shall be issued:

(A) Blouses/T-shirts, three.

(B) Slacks, three pair.

(C) Bras, three each six months.

(D) Dress, muumuu, robe or duster; one.

(E) Coat, one.

(F) Panties, five pair each six months.

(G) Nightgown, one.

(H) Socks, six pair.

(I) Pregnant inmates shall be issued one additional, larger pair of shoes.

(c) Inmates shall possess only those items of personal clothing specifically authorized by the institution head and acquired pursuant to these regulations.

(d) During interdepartmental transportation, male inmates shall wear a red, one-piece outer garment and female inmates shall wear an orange, two-piece outer garment; and all shall wear state-issued shoes, socks, and underclothes; and may possess one handkerchief.

(e) Inmates transported for appearance in court shall wear clean state-issued clothing, unless otherwise ordered by the court.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2084 and 5054, Penal Code.

HISTORY:

1. Amendment of article heading, section heading, and newly designated subsection (a), renumbering and amendment of former subsection 3032(a) to 3030(b), renumbering and amendment of former subsection 3032(b) to 3030(c), and new subsections (d) and (e) and Note filed 7-9-92; operative 8-10-92 (Register 92, No. 28).
2. Amendment of subsections (b)(3)(C)–(D) and new subsection (b)(3)(I) filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

3031. Neatness and Laundry Exchange.

Inmates shall be appropriately clothed at all times, consistent with the specific unit, work or program activities and as directed by staff. Inmate clothing shall be worn in the manner in which it was manufactured to be worn.

(b) Each inmate shall maintain issued clothing and linen as neat and clean as conditions permit. Weekly laundry exchange shall be provided on a one-for-one basis limited as follows:

(1) Shirts or blouses, two.

(2) Jeans or slacks, two pair.

(3) Undershirts, three.

(4) Undershorts, or panties, three pair.

(5) Sheets, two.

(6) Pillow case, one.

(7) Socks, three pair.
(8) Towels, two.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment of section heading, section and new Note filed 7-9-92; operative 8-10-92 (Register 92, No. 28).

3032. Alteration of Clothing.

(a) Inmates shall not alter or dispose of damaged or worn out personal or state-issued clothing or linen in any manner without specific authority to do so. If the regular issue of clothing or linen does not meet an inmate's special physical/health needs, the chief medical officer may authorize a special issue to that inmate based upon a medical necessity as defined in section 3350(b)(1). Upon staff verification, a state-issued item, which is lost or damaged through no fault of the inmate, shall be replaced without charge to the inmate.

(b) An inmate shall not alter personally owned clothing in any manner that would change its characteristics or style from that originally approved by the institution head.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Renumbering and amendment of former subsection 3032(a) to 3030(b), and former 3032(b) to 3030(c), and renumbering and amendment of former section 3033 to 3032 filed 7-9-92; operative 8-10-92 (Register 92, No. 28).
2. Amendment of subsection (a) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Amendment of subsection (a) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order including amendment of subsection (a) transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3033. Alteration.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Editorial correction of printing error (Register 92, No. 5).
2. Renumbering of former section 3033 to 3032 filed 7-9-92; operative 8-10-92 (Register 92, No. 28).

Article 3. Work and Education

3040. Participation.

(a) Every able-bodied person committed to the custody of the Secretary of the Department of Corrections and Rehabilitation is obligated to work as assigned by department staff and by personnel of other agencies to whom the inmate's custody and supervision may be delegated. Assignment may be to a full day of work, education, or other program activity, or to a combination of work and education or other program activity.

(b) Inmates assigned to a physical fitness program as part of a work incentive program shall be held to the same obligations/participation requirements governing other vocational, educational, or work assignments.

(c) Except as provided in sections 3040.2(d) and 3040(e), a classification committee shall assign each inmate to an appropriate work, education, vocation, therapeutic or other institution program, taking into account the:

(1) Inmate's expressed desires and needs.
(2) Inmate's eligibility for and availability of the desired work or program activity.
(3) Institution's security and operational needs.
(4) Safekeeping of the inmate.
(5) Safety of persons and the general public.

(d) Despite an inmate's assignment to a program mutually agreed upon in a classification committee hearing, or pending such a hearing, or pending assignment to a designated program, or during any period when the designated program is temporarily suspended, or in the absence of the inmate's agreement to participate in any program activity, any able-bodied inmate may be assigned to perform any work deemed necessary to maintain and operate the institution and its services in a clean, safe and efficient manner. Operational needs may always override a program assignment.

(e) Inmates assigned to clerical duties and office work positions, requiring an extensive amount of staff/inmate interaction, such as clerks and teachers' aides, shall be rotated at regular intervals to other positions within the institution even though that may result in lower pay, or no pay at all, to the inmate being rotated out of the position. The institution head shall determine the rotation schedule based upon security needs of the institution. Assignments to such positions shall not exceed a two-year period. Routine rotation shall not affect the inmates' work/training group designation, although it may divest the inmate of a paid position.

(f) Any staff request for removal of an inmate from a program shall be submitted to the inmate's correctional counselor on a CDC General Chrono Form. The counselor shall refer the request to a classification committee for consideration and action. If a request is for cause, defined as behavior that would result in loss of participation credit pursuant to section 3043.2(a), the inmate may be temporarily relieved of the position and denied pay (if a paid position), pending classification committee action.

(g) Work assignments, in lieu of enrollment and participation in education, vocational, therapeutic or other institution program assignments, may be made with or without the inmate's consent by a classification committee, a staff member designated as an inmate assignment officer, or by any staff member responsible for the supervision of an unassigned inmate.

(h) Inmates who have a history of computer fraud or abuse, including documented institutional disciplinary action involving computer fraud or abuse, shall not be placed in any vocational or work assignment that provides access to a computer.

(i) A job description shall be developed for each inmate work/training position, establishing the minimum standards of acceptable participation and performance and the possible consequences of failure or refusal to meet the standards. The inmate shall sign a copy of the job description, indicating acceptance of the conditions of employment, and shall receive a copy.

(j) The allocation of paid inmate work/training assignments on an institution-specific basis shall be made by the institution's inmate pay committee. Each institution shall administer an inmate pay program consistent with the budget allotted for such assignments. As directed and in accordance with section 3380, Department and institutional inmate pay committees shall administer inmate rate and wage matters subject to these regulations.

(k) An inmate's assignment to a paid position is a privilege dependent on available funding, job performance, seniority and

conduct. These factors shall be criteria considered in determining an inmate's eligibility for pay earning status and rate of pay.

(*l*) The following inmate assignments shall not be considered paid work/training assignments.

(1) Inmate advisory council members (except the chairperson and secretary).

(2) Vocational student assignments (however, exceptions may be made where the inmate is enrolled in a bona fide apprenticeship program or performs work that provides a benefit to the institution and/or public).

(3) Academic student assignments.

(4) Substance abuse or therapeutic program assignments.

(5) Any other specific work/training assignment deemed ''non-pay'' by the inmate pay committee of the institution/facility.

NOTE: Authority cited: Sections 2700, and 5058, Penal Code. Reference: Section 1182, Labor Code; and Sections 502, 2079, 2702, 2933, 5054 and 5068, Penal Code.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
3. New subsection (e) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
4. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
5. New subsection (e) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
6. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
7. New subsection (e) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
8. Editorial correction of HISTORY 7. only changing Register 88, No. 16 to Register 88, No. 24 (Register 88, No. 34).
9. Certificate of Compliance as to 6-2-88 order transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
10. Amendment of subsection (b), new subsection (d) and subsection renumbering filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-20-92 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
12. Renumbering and amendment of former section 3220.2 to subsection 3040(b) and subsection redesignation filed 6-30-95 as an emergency; operative 7-1-95 (Register 95, No. 26). A Certificate of Compliance must be transmitted to OAL by 12-7-95 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 6-30-95 order transmitted to OAL 11-22-95 and filed 1-8-96 (Register 96, No. 2).
14. New subsection (g), subsection relettering, and amendment of Note filed 3-24-99; operative 4-23-99 (Register 99, No. 13).
15. New subsection (e) and subsection relettering filed 2-13-2001; operative 3-15-2001 (Register 2001, No. 7).
16. Amendment of subsections (a)–(c), (d)–(f) and (i), new subsections (j)–(*l*)(5) and amendment of Note filed 5-3-2004; operative 6-2-2004 (Register 2004, No. 19).
17. Amendment of subsections (a), (c) and (e) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3040.1. Substance Abuse Programs for Inmates.

(a) Prisons may establish substance abuse programs (SAP) as work/training incentive assignments to provide education, work, and other program activities. An SAP is not intended to provide medical or mental health treatment. Available services and duration of programs may vary, depending upon each participating prison's security needs and space availability.

(b) A classification committee may consider inmates who have a documented history of substance abuse for placement in the SAP; placement may be voluntary or involuntary. Inmates who volunteer for participation in the SAP shall be given priority placement.

(c) Inmates with the following case factors shall not be placed in an SAP:

(1) Inmates who have been housed in a Security Housing Unit at any time during the preceding 12 months as a result of a guilty finding in a disciplinary action for assault and/or battery with force sufficient to cause serious injury or other rule violations classified as Division A-1, as listed in Section 3323(b);

(2) Inmates who have been housed in a Protective Housing Unit at any time during the preceding 12 months;

(3) Inmates who are currently members or associates of a prison gang, as certified by a Institution Gang Investigator;

(4) Inmates who have active or potential felony holds from any jurisdiction which could result in an increase in sentence length;

(5) Inmates who have active or potential United States Immigration and Naturalization Service holds;

(6) Inmates who are enrolled in Inpatient or Enhanced Outpatient Program (EOP) services.

(d) Inmates who meet the initial screening requirements for placement in an SAP shall be identified in the department's data processing system record by the placement of an ''S'' in the Eligibility Identifier field of the database.

(e) Final consideration prior to assignment to an SAP:

(1) Inmate's classification score and administrative determinants, established in accordance with section 3375, shall be appropriate to the facility where the SAP is located;

(2) Inmate's remaining time to serve shall be within the minimum length of participation required for the SAP as established at that institution.

(f) Inmates assigned to an SAP are subject to the program participation requirements listed in Section 3040, and the performance requirements of section 3041, and shall be placed in a work/training incentive group consistent with the provisions of section 3044. Inmates who fail to comply with program participation and/or performance requirements shall be subject to the methods of discipline defined in section 3312.

(g) Inmates who participate in an SAP shall not be eligible for placement in a Community Correctional Reentry Facility unless that facility provides a continuation of SAP activities.

(h) Inmates eligible for SAP placement who are housed in Conservation Camps or Minimum Support Facilities shall participate in an SAP only if one is available at that facility.

(i) A community services plan shall be developed by SAP staff for each inmate being paroled from an SAP.

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

HISTORY:

1. New section filed 8-28-98 as an emergency; operative 8-28-98 (Register 98, No. 35). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-28-98 order, including amendment of section, transmitted to OAL 2-2-99 and filed 3-18-99 (Register 99, No. 12).
3. Amendment of subsection (c)(3) filed 5-25-2006; operative 5-25-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

3040.2. Bridging Education Program.

(a) Each prison shall establish Bridging Education Programs as work/training incentive assignments to provide education programming. Inmates who are undergoing reception center processing, and are day-for-day credit eligible per Penal Code section 2933, will be assigned to the Bridging Education Program upon their arrival at the reception centers. Inmates who are day-for-day credit eligible, who are housed in general population institutions, will be eligible to be assigned to the Bridging Education Program.

(b) An inmate's participation in the Bridging Education Program will be evaluated on course curriculum, instructor evaluation, and completed assignments. Assignment to an approved Bridging Education Program shall qualify as a full-time assignment in Work Group A-1.

(c) Inmates with the following case factors shall not be placed in Bridging Education Programs:

(1) Inmates who do not meet the criteria to earn day-for-day credits per Penal Code section 2933, or are sentenced to an indeterminate term, who are undergoing reception center processing.

(2) Inmates who do not meet the criteria to earn day-for-day credits per Penal Code section 2933, or are sentenced to an indeterminate term, who are housed at a general population institution.

(3) Inmates who are housed in segregated housing (e.g., Administration Segregation Unit, Security Housing Unit, Psychiatric Services Unit, etc.).

(4) Inmates housed in facilities where the Bridging Education Program is not available (e.g., Community Correctional Facilities, Department of Mental Health, etc.).

(d) The reception center Inmate Assignment Officer shall have the authority to initiate a classification action to assign inmates to reception center Bridging Education Programs and affect a work/training group change. When taking such an action, notification and classification procedural safeguards as described in sections 3375(e) and 3375(f) of these regulations shall not be required.

(e) General population inmates may be assigned to Bridging Education Programs following a classification committee review as detailed in section 3376.

(f) A classification committee action shall not be required to remove inmates from Bridging Education Programs if no other changes in work/training group, custody designation or work waiting list is required.

NOTE: Authority cited: Sections 5058, Penal Code. Reference: Sections 2933 and 5054, Penal Code.

HISTORY:

1. New section filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3041. Performance.

(a) Inmates must perform assigned tasks diligently and conscientiously. Inmates must not pretend illness, or otherwise evade attendance or avoid performance in assigned work and program activities, or encourage others to do so.

(b) Inmates must report to their place of assignment at the time designated by the institution's schedule of activities and as instructed by their assignment supervisor. Inmates may not leave an assignment without permission to do so.

(1) Time and payroll credits for paid inmate workers shall be documented on timekeeping logs maintained by work supervisors in accordance with section 3045.

(2) The duration of an unauthorized absence from a compensated assignment shall be documented and under no circumstances shall an inmate be paid under the authority of section 3041.2 for time not worked.

(c) Inmates must perform their work and program assignments in a safe manner, using safety equipment as instructed by their assignment supervisor.

(d) Inmates assigned to educational, vocational, or other training programs must cooperate with the instructor or the person in charge, and must comply with instructions, and all requirements for participation in the assigned activity.

(e) Inmates in assignments where they will type, file, or otherwise handle any nonconfidential information pertaining to another inmate shall comply with all state Information Practices Act (Civil Code Sections 1798, et seq.) requirements.

(1) For purposes of this section inmates in such assignments are designated "special agents" of the Department of Corrections as defined in Civil Code Section 2297, for the limited purposes of typing, filing, and handling information under the supervision of employees of the Department, and for no other purpose.

(2) Pursuant to Civil Code Section 2318 inmate "special agents" are specifically deprived of the authority to disobey instructions as described in Civil Code Section 2320.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Sections 2297, 2318, 2320 and 1798 et seq., Civil Code.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. New subsections (e)–(e)(2) and Note filed 2-22-95; operative 3-24-95 (Register 95, No. 8).
3. Amendment of subsection (a) and new subsections (b)(1)–(2) filed 5-3-2004; operative 6-2-2004 (Register 2004, No. 19).
4. Amendment of subsection (b)(1) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3041.1. Paid Inmate Work/Training Assignment Criteria.

(a) Inmate work/training supervisors, in accordance with section 3040(d), shall fill vacant paid inmate assignments based on the following criteria:

(1) Skill level evidenced by the inmate's technical expertise, ability, and knowledge.

(2) Behavior and relationships with others evidenced by the inmate's ability to deal with staff and other authority figures, work/training supervisors, and other inmates.

(3) Attitude and adaptability evidenced by the inmate's willingness to learn and to take directions.

(4) Work/training habits evidenced by the inmate's punctuality, dependability, care of equipment, and safety practices.

(5) Formal education and training evidenced by the inmate's preparation for the assignment and ability to read, write, and speak effectively.

(6) Mission and physical plant of the institution/facility.

(7) Ethnic balance. Ethnic balance is achieved by having the facility's White, Black, Hispanic, American Indian, and other identified ethnicities in the inmate population proportionately represented in the number of paid assignments at the facility.

(b) Each institution/facility shall establish an application process for selection of skilled workers to fill paid positions.

(c) Inmates assigned to paid positions will be paid from the fund or allotment of the institution's/facility's support budget.

(d) All paid work/training assignments shall be ranked in sequential order of technical skill required. The United States Department of Labor Dictionary of Occupational Titles (DOT) shall be used to maintain consistency throughout the Department when determining skill levels.

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

HISTORY:

1. New section filed 2-28-95; operative 3-30-95 (Register 95, No. 9).
2. Amendment filed 5-3-2004; operative 6-2-2004 (Register 2004, No. 19).

3041.2. Inmate Pay Rates, Schedule and Exceptions.

(a) Pay rates at each facility for paid inmate assignments shall be commensurate with the level of skill and productivity required

and shall be set with the assistance of the Institutional Inmate Pay Committee. Pay rates shall be in accord with the following general pay schedule adopted and revised by the Director pursuant to the Administrative Procedures Act.

(b)(1) Pay Schedule

Skill Level	*Minimum/Maximum Hourly*		*Minimum/Maximum Monthly*	
Level 1			DOT Skill Level 9	
Lead Person	$0.32	$0.37	$48	$56
Level 2			DOT Skill Levels 7–8	
Special Skill	$0.19	$0.32	$29	$48
Level 3			DOT Skill Levels 5–6	
Technician	$0.15	$0.24	$23	$36
Level 4			DOT Skill Levels 3–4	
Semi-Skilled	$0.11	$0.18	$17	$27
Level 5			DOT Skill Levels 1–2	
Laborer	$0.08	$0.13	$12	$20

(2) Monthly rates shall apply to full time employment in the job classifications and shall be paid from the support budget or inmate welfare funds. Hourly rates shall apply to half time and partial full time paid employment.

(b) Exceptions to the above schedule may be made in extraordinary circumstances. A wage comparable to that paid to inmates in the Prison Industry Authority inmate pay program may be paid for special projects or assignments that require a high degree of skill or expertise. Other exceptions may also be made in order to fill positions when recruitment or retention of inmate workers is a problem. Any exceptions based upon this subsection shall require approval, review and justification on an annual basis by the institution head or designee.

(c) Pay increases shall not be automatic or based on the inmate's longevity in an assignment. Increases or reductions in the pay rate shall be based on the work/training supervisor's recommendation, the inmate's work/training performance reports, subject to review and approval of the work/training incentive coordinator and the inmate assignment authority.

(d) Inmates may receive a pay increase only on a quarterly basis and only until the maximum pay rate for that assignment is obtained.

(e) Inmate performance rating and total hours in job categories shall be reviewed when changes in job classifications are being considered. Inmates approved for advancement to a higher skill classification shall enter the new classification at a pay grade equal or greater to their pervious pay grade in the lower skill, unless the new assignment is to a non-paid position.

(f) The reason for any reduction in an inmate's pay rate, including either removing the pay status or decreasing the pay level from an assigned position or reassigning the inmate to a non-paid or lower paid position, shall be documented in the inmate's central file as follows:

(1) When the reason for a pay reduction is misconduct, including the inmate's willful refusal or failure to work as directed, the matter shall be reported in accordance with Sections 3314 and 3315 as appropriate.

(2) When the reason for a pay reduction is not the fault of the inmate, including their inability to satisfactorily perform the required duties after a reasonable effort to do so, the matter shall be documented on a CDC General Chrono.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2811 and 5054, Penal Code.

HISTORY:

1. New section filed 2-28-95; operative 3-30-95 (Register 95, No. 9).
2. Amendment of section heading, section and Note filed 5-3-2004; operative 6-2-2004 (Register 2004, No. 19).

3041.3. Inmate/Parolee Access to Computers.

(a) Inmates shall not access any computer outside of their authorized work, vocational, or educational assignment, except as authorized by the department's information security officer (ISO).

(b) Inmates shall not access any computer connected to a local area network (LAN), except as approved by the ISO; nor shall inmates access any computer, which has any type of direct, outside communication capability, except as provided in section 3370(b).

(c) Only those computer programs developed by inmates that are written in a programming language approved by the ISO shall be authorized for use.

(1) The use of inmates as programmers and system experts shall be prohibited where there is a risk to the information assets of the department or the public, as determined by the institution head or the ISO. Inmates shall not be used as programmers or system experts for departmental business applications, systems, and data.

(2) Inmates assigned to one computer for work, vocation or education shall not be assigned to, or permitted to use, any other computer, except as approved by the ISO.

(d) Area where inmates are authorized to work on computers shall be posted as such. Each computer in a facility shall be labeled to indicate whether or not inmate access is authorized.

(e) Inmates shall not access any computer that contains or is capable of accessing, or is connected to, other computers containing sensitive or confidential information, except as provided in section 3370(b).

(f) Inmates shall not use or be informed of any computer password. Passwords shall be set only by the supervising staff.

(g) Inmates shall not have access to diskettes or any other electronic storage media, except within an area approved by the institution head.

(h) Inmates shall not possess a computer as part of their personal property.

(i) Inmates shall not access or use any computer-based tool or program that is capable of destroying or corrupting stored data, except as provided in sections 3041.3(m) and 3370(c).

(j) Inmates who have a record of computer fraud or abuse shall not have access to a computer.

(k) No communication capabilities; e.g., telephone lines, data lines, or telephone access punch panels, shall be permitted in any area where inmates are allowed to access computers, except as approved by the ISO.

(*l*) Inmates shall not directly access or alter any computer's operating system, except as provided in sections 3041.3(m) and 3370(b), or authorized by the ISO.

(m) Inmate refurbishing of computers shall be permitted only as part of a program that has been approved, and subject to all requirements established, by the institution head and ISO. An unclothed body search shall be conducted on each inmate prior to their exiting any area where a computer-refurbishing program exists.

(n) Each parole office shall ensure the security of computers, LANs, and modems or other communication devices used in that office from unauthorized access by parolees. The Administrator of each parole office shall be responsible for enforcement of this subsection.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 502, 502.7, 2702, Penal Code.

HISTORY:

1. New section filed 3-24-99; operative 4-23-99 (Register 99, No. 13).
2. Amendment of section heading and new subsection (n) filed 1-31-2002; operative 3-2-2002 (Register 2002, No. 5).
3. Change without regulatory effect amending subsection (b) filed 5-6-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 19).

Article 3.5. Credits

3042. Credit for Participation.

HISTORY:

1. Repealed and new section filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment filed 6-30-77 as an emergency; effective upon filing (Register 77, No. 27).
3. Amendment filed 9-29-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 40).
4. Change without regulatory effect repealing section 3042 pursuant to section 100, title 1, California Code of Regulations (Register 88, No. 38).
5. Editorial correction to replace section in proper sequence (Register 91, No. 14).

3043. Credit Earning.

Presentence. Credit for time served on a term prior to sentencing shall be awarded by the sentencing court pursuant to sections 2900.1, 2900.5 and 4019 of the Penal Code.

(a) Behavior. All inmates serving a determinate term of imprisonment for a crime committed before January 1, 1983, who have not waived the time credit provisions of Penal Code section 2931, shall be credited with a one-fourth reduction on their term of imprisonment, unless all or part of such good behavior credit is denied or forfeited as the result of disciplinary action in the amounts listed in section 3323. Such credit shall be calculated from July 1, 1977 or the date of reception by the department, whichever is later.

(1) Except where otherwise prohibited by law, inmates sentenced under Penal Code section 190 to an indeterminate term of 15 years-to-life or 25 years-to-life and received by the department on or after May 27, 1987 shall be credited with a one-fourth reduction on their minimum eligible parole date, unless all or part of such good behavior credit is denied or forfeited as the result of disciplinary action in the amounts listed in section 3323.

(b) Participation. All inmates described in subsection (a) shall be credited with a one-twelfth reduction on their term unless all or part of such participation credit has been denied or forfeited as the result of disciplinary action for failure or refusal to participate and perform work and/or program assignments as ordered or directed.

(c) Work time.

(1) Inmates who have received involuntary civil commitment for narcotic addiction for an offense perpetrated on or after January 1, 1983 are not entitled to credits for good behavior or participation. Good time/participation credits shall not be calculated for new commitments received on or after August 31, 1995. Time shall be calculated in accordance with the entire sentence imposed by the court including any presentence or postsentence credits which have been granted.

(2) Civil Addict Commitments received prior to August 31, 1995 who are confined at California Rehabilitation Center (CRC) or a branch of CRC and are within 90 days of reaching their Custody Expiration Date (CED) which precedes their Program Expiration Date (PED); outpatients who are returned to CRC or a branch of CRC; and outpatient violators received prior to August 31, 1995 who have not previously elected to continue participation in the Civil Addict program shall be given two options:

(A) Remain in the Civil Addict Program, or

(B) Request exclusion from the Civil Addict Program and referral to the committing court for the vacating of Civil Addict Commitment and further proceedings on the criminal charges.

(3) The inmate's choice shall be indicated and signed utilizing the CDC Form 1840 (Rev. 12/95).

(4) Except where otherwise prohibited by law, inmates serving a determinate term of imprisonment for a crime committed on or after January 1, 1983, or who have waived their right to behavior and participation credits as provided in Penal Code section 2934, may earn a reduction in their term of imprisonment from the date of reception by the department or effective date of the waiver. Such credit reduction may be earned for participation in work, educational or vocational training assignments.

(5) Case records staff shall process and calculate inmate time credits and release dates based upon information provided by the courts and program staff.

(A) Any classification or inmate appeal action affecting an inmate's release date, including a change in work group status or credit forfeitures and restorations, shall be forwarded to case records staff. Inmates shall be provided a copy of any change in their release dates.

(B) Case records staff shall compute worktime credits. The resultant new legal status summary (LSS) shall be forwarded to the inmate. The inmate shall sign a receipt for each LSS provided.

(d) Life-term inmates.

(1) Pursuant to PC section 2933, worktime credits shall be applied to reduce the minimum terms of life inmates sentenced only under PC sections 191.5(d), 217.1(b), 667.51(d), 667.7(a)(1) and PC 667.75.

(2) Inmates sentenced to life terms with determinate sentence law (DSL) enhancements or with a consecutive DSL term shall, except where otherwise prohibited by law, be eligible to receive worktime credits on such terms pursuant to PC section 2933.

(e) Jail confinement. A reentry inmate who is confined in a local jail pending an investigation or disciplinary action, shall be classified and placed in an appropriate work group pursuant to section 3045.1.

(f) Return from work furlough. An inmate returned to an institution due to disciplinary action or refusal to participate in assigned work, education or vocational assignment shall be placed in work/training group A-2, one-third credit earning, or to group C (non-credit earning) by a re-entry classification committee.

(g) Credits for interstate transfer inmates. The Western Interstate Corrections Compact and the Interstate Corrections Compact Agreement enable the Department to transfer and exchange prisoners with other states.

(1) Inmates who agree to serve their term in another state or a federal institution, or who are serving a concurrent term in another jurisdiction, shall be eligible to earn worktime credits as authorized under the provisions of Penal Code section 2933.

(2) Before such credit can be awarded, the inmate's work/program participation must be verified by a delegated official of the host institution and reported to the department.

(h) Heroic acts and exceptional assistance. Up to 12 months reduction of sentence may be awarded for the following acts:

(1) Acts preventing loss of life or injury to the public, staff, or other inmates.

(2) Acts preventing significant loss or destruction of property.

(3) Providing sworn testimony in judicial proceedings involving prosecution of a felony offense which occurred within the prison.

NOTE: Authority cited: Sections 2700 and 5058, Penal Code. Reference: Sections 2931, 2933, 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).

HISTORY:

1. Change without regulatory effect amending subsections (a), (c) (1) and NOTE pursuant to section 100, title 1, California Code of Regulations filed 12-28-89 (Register 90, No. 1). For prior history, see Register 88, No. 50.
2. Amendment of subsection (c) and redesignated subsection (e), new subsection (d) and subsection renumbering filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.

3. Editorial correction of printing errors (Register 92, No. 4).
4. Certificate of Compliance as to 12-20-91 order including amendment of subsection (d)(2) transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
5. Editorial correction of subsection (c)(2)(A) (Register 95, No. 42).
6. New subsections (c)(1)–(3) and subsection renumbering, and amendment of Note filed 2-20-96 as an emergency; operative 2-20-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 7-29-96 pursuant to Penal Code Section 5058(e) or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2-20-96 order transmitted to OAL 6-17-96 and filed 7-23-96 (Register 96, No. 30).
8. Amendment of subsections (a)(1), (c)(4), (c)(5), (c)(5)(B), (d)(1), (g) and (g)(1) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3043.1. Waiver.

(a) Inmates serving a determinate term of imprisonment may waive the right to receive behavior and participation credit and thereafter be eligible to earn worktime credits in the amounts provided for in section 3043 (c).

(1) Inmates serving an indeterminate term of imprisonment of 15 years-to-life, or 25 years-to-life shall not be entitled to waive their right to behavior and participation credits to earn Penal Code section 2933 worktime credits to reduce their minimum eligible parole dates.

(2) Inmates sentenced under Penal Code section 190 to an indeterminate term of imprisonment of 15 years-to-life or 25 years-to-life received by the department prior to May 27, 1987, who waived their right to behavior and participation credits shall not be entitled to earn Penal Code section 2933 worktime credits after February 15, 1989 to reduce their minimum eligible parole date.

(b) All credit attributable to the portion of the inmate's sentence served prior to the effective date of the waiver shall be retained by the inmate unless such credit has been forfeited for a disciplinary offense. This credit includes all presentence custody and good behavior credit; credit granted under Penal Code Section 4019; post-sentence credit; actual days in custody from date of reception and behavior and participation credit attributable to that actual custody.

(c) Eligible inmates wishing to receive worktime credits pursuant to PC section 2933 shall present a signed time credit waiver form to their caseworker who shall:

(1) Verify the qualifying program.

(2) Enter the effective date of the waiver upon the credit waiver form.

(3) Forward the form to the facility's records office for placement into the inmate's central file.

(d) The credit waiver shall be effective on January l, 1983 if signed on or prior to that date. If signed at a later date, such waiver shall be effective on the date the inmate's assignment to a credit qualifying program is verified. In instances where any inmate serving a sentence prior to January 1, 1983 was not provided with an opportunity to sign a credit waiver, the waiver shall be effective on the date the inmate would otherwise have been eligible because of a qualifying work/training assignment. Accepted waivers shall be irrevocable.

(e) A waiver shall not be accepted from an inmate within 30 days of their release date or if the waiver is retroactive and recomputation of sentence credits would make the inmate overdue for release, or if granting the credit waiver will prevent notification to local law enforcement officials of the release of inmates described in Section 3327(c)(2) in the 45-day time frame required by law.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 832.5, 2934, 3058.6, 3058.9 and 5054, Penal Code.

HISTORY:

1. Certificate of Compliance including amendments transmitted to OAL, 3-22-83 and filed 4-27-83 (Register 83, No. 18).
2. Amendment of subsection (c) and new subsection (d) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 83, No. 16).
4. Amendment of subsection (c) and new subsection (d) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
6. Amendment of subsection (c) and new subsection (d) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
8. Change without regulatory effect of subsection (a) pursuant to section100, title 1, California Code of Regulations filed 12-28-89 (Register 90, No. 1) .
9. New subsection (c), amendment of redesignated (d) and subsection renumbering filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of printing errors (Register 92, No. 4).
11. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
12. Amendment of subsection (e) and Note filed 5-22-2006; operative 5-22-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS
CDC FORM 916 (REV 7/88)
TIME CREDIT WAIVER (PC 2934)

I _____
(print name)

having been committed for an offense which occurred prior to January 1, 1983, understand that conduct credit is granted to me pursuant to Penal Code section 2931. I am aware that under Penal Code section 2931 my term is reduced by one-third for good behavior and participation. Such credit reduction is granted at the time of reception into the Department of Corrections and can be taken away only for a disciplinary offense or for failure to participate in assigned activities. (CCR 3043.1)

I hereby waive my rights to the provisions of Penal Code section 2931. By making this voluntary waiver, I request that future Time Credit be granted pursuant to Penal Code section 2933. Such credit must be earned and will be awarded only after it is earned. This waiver will be effective only when accepted by the Department. I am also aware that this waiver is irrevocable. (CCR 3043.1)

I am aware and understand that Time Credit will be granted, based upon my actual performance in the work group to which I am assigned, as follows: (CCR 3043.1)

Full-Day Assignment: For each six months of full time assignment, six months credit or one day credit for each day assigned for a lesser period. (CCR 3044)

Half-Day Assignment: For each six months of one-half day assignment or enrollment in a two or four-year college program leading to a degree, three months credit, or one day for each two days assigned for a lesser period. (CCR section 3044)

Involuntary Unassigned: For each six months on a waiting list, three months credit or one day credit for each two days on a waiting list for a lesser period. See CCR 3044 for additional information. (CCR 3044)

Voluntarily Unassigned: Zero credit will be earned if I refuse to accept or perform a full-time assignment. (CCR 3044)

Segregation Following A Disciplinary Infraction: When I am in lockup status due to a disciplinary infraction, zero credit will be earned for a period equal to the number of days of any disciplinary credit loss, this may be extended in six month increments thereafter. (CCR 3044)

I am aware that my credit earning status may be changed by a classification committee action at any time. I am aware that I may be placed in zero credit earning status due to a work/training disciplinary and/or unsatisfactory work performance. (CCR 3044)

I am aware and agree that the penalties for a disciplinary offense committed by me have been increased, as follows:

Up to 360 days of credit may be denied or lost for a single act of misconduct as provided in Section (CCR 3323(c)), whether or not prosecution is undertaken.

Up to 180 days of credit may be denied or lost for a single act of misconduct as provided in Section (CCR 3323 (d)(e)(f)(g)(h)), whether or not prosecution is undertaken.

Up to 30 days of credit may be denied or lost for a single act of misconduct defined by regulations as a serious disciplinary offense by the Department of Corrections. (CCR 3323(i))

SIGNED: _____

CDC NUMBER: _____

DATE: _____

WITNESSED (SIGNATURE): _____

TITLE: _____

DATE: _____

WITNESS' NAME (PRINT/TYPE): _____

This waiver is accepted by the Department of Corrections and is effective

DATE: _____

3043.2. Loss of Participation Credit.

(a) Any inmate who accumulates participation credit as described in Section 3043(b) may be denied or may forfeit such credit for failure or refusal to perform assigned, ordered, or directed work or program activities, as described in section 3040. Any serious disciplinary offense committed while participating in such prison work or program activities shall be deemed a failure to participate.

(b) Not more than 30 days of participation credit may be denied or forfeited for any single failure or refusal to participate, which occurred on or after January 1, 1983.

(c) Failure to work or participate in program activities for reasons, which are beyond the inmate's control, shall not be cause for denial or forfeiture of participation credit. Such circumstances may include but are not limited to:

(1) The inmate has not been given instructions or an order or an assignment to perform or participate in work or program activities.

(2) The inmate's work or program assignment has been temporarily suspended or permanently terminated, and no other work or program assignment has been ordered.

(3) The inmate is medically excluded or restricted from work or program activities, either on a temporary basis because of illness or injury, or on a permanent basis because of medically diagnosed physical or mental inability to participate.

(4) The inmate has failed to perform or participate after demonstrating a reasonable effort in the specified activity.

(5) The inmate is restricted from reporting to or participating in an assigned work or program activity by an order or action of institution staff.

NOTE: Authority cited: Sections 2931 and 5058, Penal Code. Reference: Sections 2931 and 5054, Penal Code.

HISTORY:

1. Certificate of Compliance including amendments transmitted to OAL 3-22-83 and filed 4-27-83 (Register 83, No. 18).

3043.3. Loss of Behavior or Worktime Credit.

(a) As used in these regulations, ''forfeiture'' of credits means loss of credits previously earned or to be earned. Behavior or worktime credit may be denied or forfeited for the commission of any felony or misdemeanor, whether prosecuted or not, serious rule violation committed after January 1, 1983, or court judgment pursuant to Penal Code Section 2932.5.

(1) Not more than 360 days of credit shall be denied or forfeited for any act specified as a division A-1 offense in section 3323(c), of these regulations.

(2) Not more than 180 days shall be denied or forfeited for any act specified as a division A-2 offense in section 3323(d) of these regulations or for any other felony not cited in subsection (a) (1).

(3) Not more than 90 days shall be denied or forfeited for commission of any misdemeanor.

(4) Not more than 30 days shall be denied or forfeited for any single act described as a serious rule violation in these regulations, unless such act is a misdemeanor or felony offense.

(5) An inmate found by a court to be a vexatious litigant as defined in Section 3000 shall be denied or lose 30 days of worktime credit.

(b) No behavior credit attributable to any portion of a sentence served prior to January 1, 1983 shall be forfeited for any criminal or disciplinary offense occurring on or after January 1, 1983.

(c) Credit loss shall be assessed in accordance with the schedule provided in section 3323. The inmate shall be notified of the change in his or her anticipated release date due to the denial or forfeiture of credits.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932, 2932.5 and 5054, Penal Code.

HISTORY:

1. Certificate of Compliance including amendments transmitted to OAL 3-22-83 and filed 4-27-83 (Register 83, No. 18).
2. Amendment of subsection (a) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
4. Amendment of subsection (a) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
6. Amendment of subsection (a) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
8. Editorial correction of printing error in History 1. (Register 92, No. 5).
9. Amendment of subsection (a), new subsection (a)(5) and amendment of Note filed 11-12-97 as an emergency; operative 11-12-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-13-98 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of History 9 (Register 98, No. 18).
11. Amendment of subsection (a), new subsection (a)(5) and amendment of Note refiled 4-29-98 as an emergency; operative 4-29-98 (Register 98, No. 18). A Certificate of Compliance must be transmitted to OAL by 10-6-98 or emergency language will be repealed by operation of law on the following day.

12. Certificate of Compliance as to 4-29-98 order transmitted to OAL 6-12-98 and filed 7-21-98 (Register 98, No. 30).
13. Amendment of subsection (a)(4) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3043.4. Non-Credit Earning.

An inmate eligible to earn worktime credit who refuses a full-time qualifying assignment, or is placed on non-credit earning status (Work Group C) by a classification committee for frequent work/training violations, shall not receive a worktime credit reduction from their sentence until the inmate agrees to accept a qualifying assignment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2931, 2932, 2933, 5054 and 5068, Penal Code.

HISTORY:

1. Certificate of Compliance including amendments transmitted to OAL 3-22-83 and filed 4-27-83 (Register 83, No. 18).
2. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
4. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No 24).
6. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance transmitted to OAL 9-26-88; operative 10-26-88 (Register 88, No. 50).
8. Amendment filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3043.5. Credit Earning Special Assignments.

(a) Special assignments include:

(1) Inmate advisory council. The positions of chairperson and secretary of an institution's inmate advisory council may be full-time positions in Work Group A-1.

(2) Prerelease program. Assignment to an approved full time pre-release program shall qualify as full time assignment in Work Group A-1.

(3) Bridging Education Program. Assignment to an approved Bridging Education Program as described in section 3040.2, shall qualify as a full-time assignment in Work Group A-1.

(b) Medical/psychiatric inpatient hospitalization (29 calendar days or less). Inmates determined by medical/psychiatric staff to need short-term inpatient care shall retain their existing credit earning category. Inmates requiring longer periods of inpatient care shall be referred by the attending physician/psychiatrist to a classification committee. The classification committee shall confirm the inmate's unassigned inpatient category and change the inmate's work/training group status as follows:

(1) General population inmates shall be placed in Work Group A-2, effective the thirtieth day of unassignment.

(2) Segregation inmates who are in Work Group A-1 or B shall be placed in Work Group D-1, effective the first day of placement into Administrative Segregation.

(3) Segregation inmates in Work Group D-1 or D-2 shall retain their Work Group status.

(c) Long term medical/psychiatric unassigned status. In cases where the health condition necessitates that the inmate becomes medically unassigned for 30 calendar days or more, the physician shall specify an anticipated date the inmate may return to work. The classification committee shall review the inmate's medical or psychiatric unassigned status and change the inmate's Work Group status as follows:

(1) An inmate in the general population shall be changed to Work Group A-2, involuntary unassigned, to be effective the thirtieth day of unassignment.

(2) An inmate in a lockup unit who is in Work Group A-1 or B shall be changed to Work Group D-1 to be effective the first day of placement into Administrative Segregation.

(3) An inmate in a lockup unit who is in Work group D-1 or D-2 shall be retained in their respective Work Group.

(d) Medical/psychiatric health care status determination:

(1) When an inmate has a disability that limits his/her ability to participate in a work, academic, vocational or other such program, medical/psychiatric staff shall document the nature, severity, and expected duration of the inmate's limitations on a CDC Form 128-C (Rev. 4/92), Chrono-Medical, Psych, Dental. The medical/psychiatric staff shall not make program assignment recommendations or decisions on the form. The CDC Form 128-C shall then be forwarded to the inmate's assigned correctional counselor who will schedule the inmate for a classification committee review. The classification committee shall have the sole responsibility for making program assignment and work group status decisions. Based on the information of the CDC Form 128-C and working in conjunction with staff from the affected work area, academic/vocational program, and the Inmate Assignment Lieutenant or Work Incentive Coordinator, the classification committee shall evaluate the inmate's ability to participate in work, academic, vocational, or other programs and make a determination of the inmate's program assignment and work group status.

(2) Only when the inmate's documented limitations are such that the inmate, even with reasonable accommodation, is unable to perform the essential functions of any work, academic, vocational or other such program, will the inmate be placed in one of the two following categories by a classification committee:

(A) Temporary medical/psychiatric unassignment. Except as provided in section 3043.5(e)(2)(A), when a disabled inmate is unable to participate in any work, academic, vocational or other program, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to last for less than six months, the classification committee shall place the inmate on temporary medical/psychiatric unassignment. Inmates on temporary medical/psychiatric unassignment status shall be scheduled for classification review any time there is a change in his/her physical/mental impairment or no less than every six months for reevaluation. The credit earning status of an inmate on temporary medical/psychiatric unassignment for less than six months shall be in accordance with section 3044(b)(3), Work Group A-2. If the inmate's condition lasts six months and the classification committee still cannot assign the inmate due to his/her impairment, the credit earning status shall be changed to be in accordance with section 3044(b)(2), Work Group A-1 and appropriate privilege group retroactive to the first day of the temporary medical/psychiatric unassignment.

(B) Medically disabled. When an inmate is unable to participate in any assigned work, academic, vocational, or other such program activity, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to result in death or last six months or more, the classification committee shall place the inmate on medically disabled status. The inmate credit earning status shall be in accordance with section 3044(b)(2), Work Group A-1 and Privilege Group A.

(e) Medical/psychiatric special assignments:

(1) Light duty: Inmates determined to have long-term medical or psychiatric work limitations shall be processed in the following manner:

(A) A medical or psychiatric evaluation of the inmate shall be made to determine the extent of disability and to delineate capacity to perform work and training programs for either a full or partial workday. If the inmate is deemed capable of only a partial work program, full credit shall be awarded for participation in such a program.

(B) A classification committee shall review the evaluation and determine the inmate's assignment.

1. A committee concurring with an evaluation's light duty recommendation shall refer the matter to the facility's assignment office which shall attempt to provide an assignment within the inmate's capabilities. Inmates assigned to such light duty shall be scheduled for semi-annual review.

2. A committee disagreeing with an evaluation's light duty recommendation shall refer the matter back to the medical department, describing the difference of opinion or rationale for requesting a second medical evaluation. If the committee disagrees with the second medical evaluation it shall refer the matter to the institution classification committee for final determination.

(2) Short-term medical/psychiatric lay-in or unassignment. Inmates who are ill or otherwise require a medical/psychiatric lay-in or unassignment for 29 days or less shall be processed in the following manner:

(A) Only designated medical/psychiatric staff are authorized to approve such lay-ins and unassignments. Reasons for the approval and the expected date of return to their regular assignment shall be documented by the medical/psychiatric staff making the decision.

(B) Inmates shall notify their work or training supervisor of their lay-in or unassignment status. The work or training supervisor shall record each day of the inmate's approved absence as an "E".

(C) Medical/psychiatric staff determining an inmate should continue on lay-in or unassigned status for more than 29 days shall refer the case to a classification committee.

(D) The inmate shall continue to use ETO time while on short-term medical/psychiatric lay-in or unassigned status.

(f) On-the-job injuries. The chief medical officer shall document inmate injuries occurring on the job. With the exception of inmates assigned to Work Group F, such injured inmates shall retain their existing work group status until medically approved to return to their work assignment. Inmates assigned to Work Group F shall revert to Work Group A-1 effective on the date the chief medical officer determines the on-the-job injury excludes the inmate from conservation camp placement providing the chief medical officer's exclusion determination is within 29 days following the date of the inmate's removal from the conservation camp assignment. If the chief medical officer's exclusion determination is not within 29 days following the date of the inmate's removal from the conservation camp assignment, the inmate shall revert to Work Group A-1 effective the 30th day following the date of the inmate's removal from the conservation camp assignment.

(g) Medical or psychiatric treatment categories "H", "I", and "N". An inmate assigned to category "H", "I", or "N" is not capable of performing a work or training assignment and shall, except where otherwise prohibited by law, be placed in Work Group A-1.

(h) Department of Mental Health (DMH) Penal Code (PC) sections 1364, 2684 and 2690 placements. An inmate transferred to DMH pursuant to PC sections 1364, 2684 or 2690 shall be placed in a work group as provided in section 3043.6(b).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 2933.3, 5054 and 5068, Penal Code.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Amendment of subsection (b), repealer of subsection (c)(4), and new subsections (d)–(g) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction of subsection (a)(2) (Register 92, No. 4).
9. Certificate of Compliance as to 12-20-91 order including amendment of subsection (f) transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
10. Amendment of subsection (c) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (c) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
12. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
13. Amendment of subsection (c) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
15. Amendment of subsection (e) and amendment of Note filed 10-23-2003 as an emergency; operative 10-23-2003 (Register 2003, No. 43). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 4-1-2004 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 10-23-2003 order transmitted to OAL 3-19-2004 and filed 5-3-2004 (Register 2004, No. 19).
17. Amendment of subsection (a)(1) filed 5-3-2004; operative 6-2-2004 (Register 2004, No. 19).
18. Amendment filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3043.6. Impact of Transfer on Credit Earning.

(a) Non-adverse transfers.

(1) A non-adverse transfer is movement of an inmate to a less restrictive institution or program where the security level is the same or lower, movement to a secure perimeter from a non-secure camp or Level 1 (Minimum Support Facility) setting by order of the prison administration for non-adverse reasons or transfers from reception centers.

(2) With the exception of inmates assigned to Work Group F, an inmate transferred for non-adverse reasons shall retain their

work/training and privilege group status. Inmates assigned to Work Group F shall revert to Work Group A-1 effective the date removed from camp assignment.

(3) An inmate in a vocational/training program at the sending institution shall be assigned the same or similar program, if eligible, at the receiving institution unless the program has no vacancy, or the program is unavailable. If the receiving institution's program is full or unavailable, the inmate shall be placed on any existing waiting list. If eligible, inmates on waiting lists at sending institutions shall be merged into the receiving institution's waiting list based on credit earning status, release date, and the length of time they have spent on the sending institution's waiting list. Inmates who are day-for-day eligible per Penal Code section 2933 shall be given priority for assignment. Inmates shall be merged into the receiving institution's waiting list in the following manner:

(A) First, those inmates who are day-for-day credit eligible, approved for the program and are not assigned, Work Group A-2. Inmates eligible to earn credits per Penal Code section 2933 shall be given priority for placement on waiting lists and the inmate with the earliest release date shall be given first priority.

(B) Second, inmates who are day-for-day credit eligible and are already designated Work Group A-1. Inmates eligible to earn credits per Penal Code section 2933 shall be given next priority for placement on waiting lists and the inmate with the earliest release date shall be given first priority.

(C) Third, those inmates who are not Penal Code section 2933 day-for-day credit eligible and are already designated Work Group A-1. Inmates will be placed on waiting lists based upon the work group effective date.

(D) Fourth, those inmates who are not Penal Code section 2933 day-for-day credit eligible and are not assigned, Work Group A-2. Inmates will be placed on waiting lists based upon the work group effective date.

(b) Transfers to Department of Mental Health (DMH).

(1) Penal Code (PC) sections 2684 and 2690 transfers. An inmate transferred to the DMH pursuant to PC sections 2684 and 2690 is not capable of performing a work or training assignment. Such an inmate shall be classified by the sending facility before the transfer and placed in Work Group A-1.

(2) Penal Code section 1364 transfers. An inmate transferred to DMH to participate in the voluntary experimental treatment program pursuant to Penal Code section 1364 shall participate in a full-time credit qualifying work/training assignment in order to earn full worktime credit.

(c) Adverse transfers.

(1) Adverse transfers are defined as a transfer resulting from any in-custody documented misbehavior or disciplinary that may or may not have resulted in an inmate's removal from current program.

(2) If an inmate is removed from a program for adverse reasons and is subsequently exonerated of the charges, the credit earning status shall be designated as though the inmate had not been removed from the assignment.

(3) Effective on the date of transfer an inmate in Work Group A-1 or F who receives an adverse transfer shall be reclassified to Work Group A-2 by the sending institution. The inmate shall remain in Work Group A-2 until reclassified by the receiving institution.

(4) An inmate in Work Group A-2, C or D at the time of transfer shall be retained in that group status until reclassified at the receiving institution.

(d) Reception center or layover status.

(1) Inmates being processed in reception centers, not on layover (en route) status, who are eligible to earn day-for-day credit per Penal Code section 2933, are eligible to be assigned to a full-time Bridging Education work/training program.

(2) Inmates being processed in reception centers, who are ineligible to earn day-for-day credits per Penal Code section 2933, can be assigned to half-time work/training programs. Inmates on layover (en route) status in any institution shall only be assigned to half-time work/training programs. Exception to this policy requires approval from the director, division of adult institutions.

(3) An inmate's participation in a full or half-time assignment while undergoing reception center processing shall be recorded on timekeeping logs. The inmate's timekeeping log shall be completed by the work supervisor on a daily basis. A copy shall be issued to the inmate upon written request.

(e) Special housing unit transfers.

(1) Inmates found guilty of a credit loss offense which could result in a security housing unit (SHU) determinate term shall be evaluated for SHU assignment by a classification committee.

(2) If SHU assignment is recommended, the committee shall place the inmate in Work Group D-2 effective the date that the inmate was administratively segregated for the instant offense.

(f) Community Correctional Center (CCC) transfers. Transfers of inmates approved for a CCC program are considered non-adverse. With the exception of inmates assigned to Work Group F, inmates shall retain their current work group status while en route to a program. Inmates assigned to Work Group F shall revert to Work Group A-1 effective the date removed from the camp assignment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1364, 2684, 2690, 2933, 2933.3, 5054 and 5068, Penal Code.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. New subsection (a)(4), amendment of subsection (b)(1) and new subsections (e)–(f) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-20-91 order including amendment of subsection (b)(1) transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
9. Change without regulatory effect amending subsection (c)(1) filed 2-5-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 6).
10. Amendment of section and Note filed 10-23-2003 as an emergency; operative 10-23-2003 (Register 2003, No. 43). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 4-1-2004 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 10-23-2003 order transmitted to OAL 3-19-2004 and filed 5-3-2004 (Register 2004, No. 19).
12. Amendment filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3043.7. Impact of 45-Day Notification on Credit Earnings.

Inmates shall not be placed in a greater credit earning category if it prevents notification to local law enforcement officials of the release of inmates described in Section 3327(c)(2) in the 45-day time frame, as required by Penal Code Sections 3058.6 and 3058.9.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3058.6, 3058.9 and 5054, Penal Code.

HISTORY:

1. New section filed 5-22-2006; operative 5-22-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

3044. Inmate Work and Training Incentive Groups.

(a) Full-time and half-time defined.

(1) Full-time work/training assignments normally mean eight (8) hours per day on a five day per week basis, exclusive of meals.

(2) Half-time work/training assignments normally mean four (4) hours per day on a five day per week basis, exclusive of meals.

(b) Consistent with the provisions of sections 3375 and 3040.2(d) of these regulations, all assignments or reassignments of an inmate to a work/training incentive group shall be by a classification committee action in accordance with this section.

(1) Work Group F: Full-time conservation camp work assignment. Inmates eligible to earn day-for-day worktime credits under Penal Code section 2933 shall be awarded two days credit for each day of qualifying performance. An inmate's ability to earn two-for-one credit shall not begin until he/she is assigned and reports to an established position in the conservation camp setting. Conservation camp inmates eligible for two-for-one credit, as defined in this section, may be eligible for Work Group F credit during temporary removals from the conservation camp setting. Inmates who become ineligible for continued conservation camp placement for any reason shall be removed from Work Group F and assigned to an appropriate Work Group consistent with the remaining provisions of this section.

(2) Work Group A-1: Full-time work/training assignment. Inmates eligible to earn Penal Code section 2933 worktime credits shall be awarded one day credit for each day assigned to this work group. The work day shall not be less than 6.5 hours and the work week no less than 32 hours. Those programs requiring an inmate to participate during other than the normal schedule of eight-hours-per-day, five-days-per-week (e.g., 10-hours-per-day, four-days-per-week) or programs that are scheduled for seven-days-per-week, requiring inmate attendance in shifts (e.g., three days of 10 hours and one day of five hours) shall be designated as "special assignments" and require departmental approval prior to implementation. A CDC Form 128-B or E chrono shall be placed in the inmate's central file stating the hours of participation required for full-time sentence reduction credits. "Special assignment" shall be entered on the inmate's timekeeping log by the staff supervisor.

(A) Full-time educational and training program. Elementary school, high school, and vocational training programs require the same minimum hourly participation as the full-time work assignment.

(B) Combination programs qualifying as full-time. Any combination of half-time work, school or training program resulting in full-time assignment requires the same minimum participation as a regular full-time work assignment. Each combination half-time assignment requires the same minimum participation as a half-time work assignment.

(C) A full-time college program may be combined with a half-time work or vocational training program equating to a full-time assignment. The college program shall consist of 12 units in credit courses only leading to an associate degree in two years or a bachelor's degree in four years.

(D) A full-time Bridging Education Program requiring the same minimum participation as a regular full-time work/training assignment. Participation will be evaluated on course curriculum, instructor evaluation, and completed assignments.

(E) An inmate diagnosed by a physician and/or psychiatrist as totally disabled and therefore incapable of performing a work/training assignment, shall remain in Work Group A-1 throughout the duration of their total disability.

(F) An inmate when diagnosed by a physician and/or psychiatrist as partially disabled shall be assigned to a work/training assignment within the physical and/or mental capability of the inmate as determined by the physician and/or psychiatrist, unless changed by disciplinary action.

(3) Work Group A-2: Involuntarily unassigned.

An inmate willing but unable to perform in a full-time assignment shall receive three months credit for each six months served, or one day for each two days served, in the following status:

(A) The inmate is placed on a waiting list pending availability of a full-time work/training assignment.

(B) An unassigned inmate awaiting adverse transfer to another institution.

(4) Work Group B: Half-time work/training assignment. Half-time programs shall normally consist of a work/training assignment of four hours per workday, excluding meals, five-days-per-week, or full-time enrollment in college consisting of 12 units in credit courses leading to an associate or bachelor's degree. The work day shall be no less than three hours and the work week no less than 15 hours.

(5) Work Group C: Voluntary unassigned. Zero credit.

(A) An inmate who refuses to accept or perform in a work/training assignment, or who is deemed a program failure as defined in Section 3000, and who is placed on non-credit earning status by a classification committee shall earn zero worktime credits.

(B) An inmate shall remain in zero credit earning status until classified for placement in a credit qualifying work group. An inmate must submit a written request for reclassification to be considered for assignment and removal from Work Group C no earlier than 30 days from the date of placement. The inmate shall be scheduled for a hearing within 30 days of receipt of the written request.

(6) Work Group D-1: Indeterminate lockup status. Except as provided in section 3044(b)(7)(C), an inmate assigned to a segregated housing program, shall be awarded three months credit for each six months served or one day credit for two days served. Segregated housing shall include, but not be limited to, the following:

(A) Administrative Segregation Unit (ASU).

(B) Security Housing Unit (SHU).

(C) Psychiatric Services Unit (PSU).

(7) Work Group D-2: Serving SHU term, deemed a program failure while on indeterminate or determinate lockup status, or voluntarily unassigned at the time of or subsequent to placement in ASU, SHU, or PSU. Zero credit.

(A) An inmate assigned to a determinate SHU term which included a forfeiture of credits shall not be placed in a credit earning assignment during the period of credit forfeiture or 180 days, whichever is less, starting from the date of change in custodial classification. An inmate confined in a secure housing unit for a division A-1 offense, as designated in section 3323(c) of these regulations, and which included great bodily injury on a non-prisoner shall not receive participation or work-time credits for up to 360 days. Upon completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee.

(B) An inmate's status in Work Group D-2 may be extended, in up to six-month increments, by a classification committee in unusual cases where no credit qualifying program can be assigned the inmate without causing a substantial risk of physical harm to staff or others. At the end of the designated period (six months or less), the determination shall be reviewed by an institution classification committee.

(C) An inmate in ASU, SHU, or PSU, on indeterminate or determinate lockup status, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 by a classification committee. An inmate assigned to Work Group C at the time of placement in ASU, SHU, or PSU, or who refuses to accept or perform work/training assignments, shall be assigned Work Group D-2. An inmate assigned to Work Group D-2 pursuant to this section must submit a written request for reclassification to be considered for removal from that Work Group. If Work Group D-2 has been assigned based solely upon the inmate already being assigned to Work Group C at the time of placement in ASU, SHU, or PSU, the request may be submitted no earlier than 30 days from the original Work Group C assignment date. If Work Group D-2 has been assigned following placement into ASU, SHU, or PSU, for refusing to accept or perform a work/training assignment, or for being deemed a program failure as defined in section 3000, the request for removal must be submitted no earlier that 30 days from the date Work Group D-2 was assigned. Subsequent to the mandatory 30 days placement on Work Group D-2, if the inmate submits a written request for removal, and Work Group D-2 has not been assigned pursuant to section 3044(b)(7)(A) or 3044(b)(7)(B), a hearing shall be scheduled within 30 days of receipt of the written request to consider removal from Work Group D-2.

(8) Work Group U: Unclassified. An inmate undergoing reception center processing is in this status from the date of their reception until classified at their assigned institution, unless the inmate is assigned to a full-time Bridging Education Program as described in this section. An inmate on unclassified status shall be granted three months credit for each six months served or one day credit for each two days served.

(c) Privileges. Privileges for each work/training incentive group shall be those privileges earned by the inmate. Inmate privileges are administratively authorized activities and benefits required of the secretary, by statute, case law, governmental regulations, or executive orders. Inmate privileges shall be governed by an inmate's behavior, custody classification and assignment. A formal request or application for privileges is not required unless specified otherwise in this section. Institutions may provide additional incentives for each privilege group, subject to availability of resources and constraints imposed by security needs.

(1) To qualify for privileges generally granted by this section, an inmate shall comply with rules and procedures and participate in assigned work/training activities.

(2) Privileges available to a work/training incentive group may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing upon a finding of an inmate's guilt for a disciplinary offense as described in sections 3314 and 3315 of these regulations or by a classification committee action changing the inmate's custody classification, work/training group, privilege group, or institution placement.

(3) Disciplinary action denying, modifying, or suspending a privilege for which an inmate would otherwise be eligible shall be for a specified period not to exceed 30 days for an administrative rule violation or 90 days for a serious rule violation.

(4) A permanent change of an inmate's privilege group shall be made only by classification committee action under provisions of section 3375. Disciplinary or classification committee action changing an inmate's privileges or privilege group shall not automatically affect the inmate's work/training group classification. Worktime credit earning shall be affected only by a work/training group change by a classification committee.

(5) No inmate or group of inmates shall be granted privileges not equally available to other inmates of the same custody classification and assignment who would otherwise be eligible for the same privileges.

(6) Changes in privilege group status due to the inmate's placement in lockup:

(A) An inmate housed in an ASU, SHU, or PSU shall be designated Privilege Group D. However, if assigned to a qualifying work/training program within the special housing unit, the inmate shall be assigned privileges of a higher group, if such privileges are available within the assigned housing unit.

(B) An inmate working in lockup units while serving a determinate SHU terms shall be retained in Privilege Group D only, irrespective of their work/training assignment.

(C) An inmate removed from the general population for disciplinary or administrative reasons shall surrender their privilege card to staff.

(7) An inmate in a re-entry furlough assignment shall be eligible for available privileges subject to working eight-hours-per-day and shall not require a privilege group designation. A re-entry inmate placed in a county facility shall be entitled to the same privileges accorded count prisoners and provided for under terms of the department's contract with the county facility.

(8) An inmate's privileges shall be conditioned upon each of the following:

(A) The inmate's compliance with procedures governing those privileges.

(B) The inmate's continued eligibility and possession of the appropriate privilege card.

(C) The inmate's good conduct and satisfactory participation a work/training assignment.

(9) Inmates returned to custody from parole may be eligible to receive privileges based upon their satisfactory participation in a work/training assignment.

(d) Privilege Group A:

(1) Criteria:

(A) Full-time work/training assignment as defined in section 3044(a).

(B) An inmate diagnosed by a physician and/or psychiatrist as totally disabled shall remain in Privilege Group A unless changed by disciplinary action.

(C) An inmate designated by a physician and/or psychiatrist as partially disabled pursuant to section 3044(a) shall remain in Privilege Group A unless changed by disciplinary action.

(2) Any inmate classified and assigned to Privilege Group A shall receive a red CDC 130 Privilege Card with photo.

(3) Privileges for Privilege Group A are as follows:

(A) Family visits limited only by the institution/facility resources, security policy, section 3177(b), or other law.

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist as defined in section 3045.2(e)(2).

(C) Maximum monthly canteen draw as authorized by the secretary.

(D) Telephone access during the inmate's non-work/training hours limited only by institution/facility telephone capabilities.

(E) Access to yard, recreation and entertainment activities during the inmate's non-working/training hours and limited only by security needs.

(F) Excused time off as described in section 3045.2.

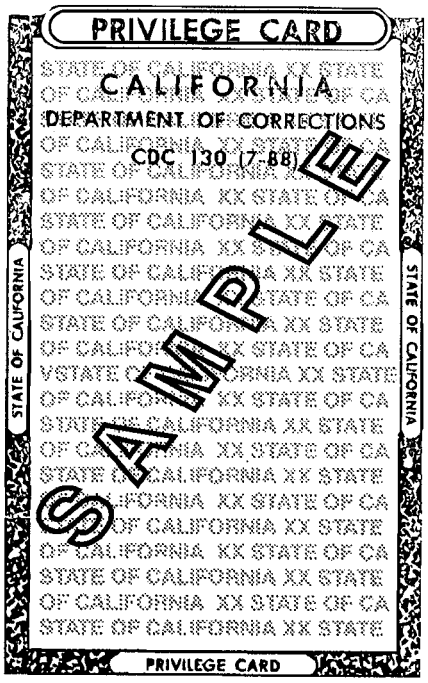
(G) The receipt of four personal property packages, 30 pounds maximum weight each, per year; exclusive of special purchases.

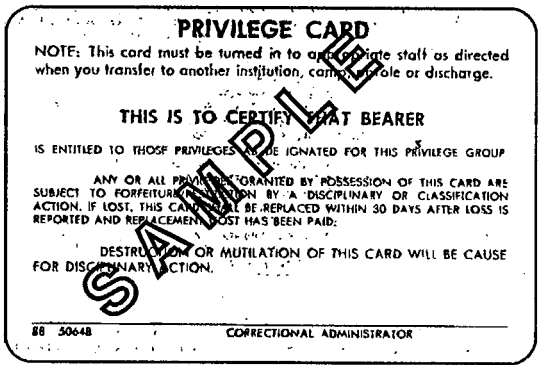
(e) Privilege Group B:

(1) Criteria, any of the following:

(A) Half-time work/training assignment as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(b).

(B) A hearing official may temporarily place an inmate into the group as a disposition pursuant to section 3314 or 3315.





(2) Any inmate in Privilege Group B shall not be issued a privilege card.

(3) Privileges for Privilege Group B are as follows:

(A) One family visit each six months, unless limited by section 3177(b) or other law.

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist, as defined in section 3045.

(C) One-half the maximum monthly canteen draw as authorized by the secretary.

(D) One personal telephone access period per month.

(E) Access to yard, recreation, and entertainment activities during the inmate's non-working/training hours and limited only by institution/facility security needs.

(F) Excused time off as described in section 3045.2.

(G) The receipt of four personal property packages, 30 pounds maximum weight each, per year, exclusive of special purchases.

(f) Privilege Group C:

(1) Criteria, any of the following:

(A) The inmate who refuses to accept or perform in a work/training assignment or is deemed a program failure as defined in section 3000.

(B) A hearing official may temporarily place an inmate into the group as a disposition pursuant to section 3314 or 3315.

(C) A classification committee action pursuant to section 3375 places the inmate into the group. An inmate placed into Privilege Group C by a classification committee action may apply to be removed from that privilege group no earlier than 30 days from the date of placement. Subsequent to the mandatory 30 days placement on Privilege Group C, if the inmate submits a written request for removal, a hearing shall be scheduled within 30 days of receipt of the written request to consider removal from Privilege Group C.

(2) Any inmate in Privilege Group C shall not be issued a privilege card.

(3) Privileges and non-privileges for Privilege Group C are as follows:

(A) No family visits.

(B) One-fourth the maximum monthly canteen draw as authorized by the secretary.

(C) Telephone calls on an emergency basis only as determined by institution/facility staff.

(D) Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.

(E) No personal property packages.

(g) Privilege Group D:

(1) Criteria: Any inmate housed in a special segregation unit, voluntarily or under the provisions of sections 3335–3345 of these regulations who is not assigned to either a full-time or half-time work/training assignment.

(2) An inmate in Privilege Group D shall not be issued a privilege card.

(3) Any inmate removed from the general population due to disciplinary or administrative reasons, shall forfeit their privilege card and privileges within their general population privilege group pending review by a classification committee.

(4) Privileges and non-privileges for Privilege Group D are as follows:

(A) No family visits.

(B) One-fourth the maximum monthly canteen draw as authorized by the secretary.

(C) Telephone calls on an emergency basis only as determined by institution/facility staff.

(D) Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.

(E) The receipt of one personal property package, 30 pounds maximum weight, per year, exclusive of special purchases as provided in Section 3190. Inmates shall be eligible to acquire a personal property package after completion of one year of Privilege Group D assignment.

(h) Privilege Group U:

(1) Criteria: Reception center inmates under processing.

(2) An inmate in this category shall not be issued a privilege card.

(3) Privileges and non-privileges for Privilege Group U are:

(A) No family visits.

(B) Canteen Purchases. One-half of the maximum monthly canteen draw as authorized by the secretary.

(C) Telephone calls on an emergency basis only as determined by institution/facility staff.

(D) Yard access, recreation, and entertainment limited by local institution/facility security needs.

(E) Excused time off as described in section 3045.2.

(F) No personal property packages.

(i) Inmates shall retain in their possession any privilege card issued them for eligibility to receive designated privileges. Each inmate shall present the card upon staff request in order to receive

or participate in an authorized privilege, and may be denied the privilege if the card is not presented.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.3, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal.App.3d 1224 (1988).

HISTORY:

1. Change without regulatory effect of subsection (c)(1) and NOTE pursuant to section 100, title 1, California Code of Regulations filed 12-28-89 (Register 90, No. 1). For prior history, see Register 88, No. 50.
2. Relocation of (a) to section 3045, amendment of redesignated (c)(4)–(f), new subsections (c)(8)–(9) and (i) and subsection renumbering filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of printing errors (Register 92, No. 4).
4. Editorial correction of printing error in subsection (b)(1) (Register 92, No. 5).
5. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
6. Amendment of subsections (d)(3)(A) and (e)(3)(A) filed 2-27-95 as an emergency; operative 5-30-95 (Register 95, No. 9). A Certificate of Compliance must be transmitted to OAL by 11-6-95 or emergency language will be repealed by operation of law on the following day.
7. New subsections (f)(3)(H), (g)(4)(H) and (h)(3)(H) and amendment of Note filed 6-30-95 as an emergency; operative 7-1-95 (Register 95, No. 26). A Certificate of Compliance must be transmitted to OAL by 12-7-95 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (d)(3)(A) and (e)(3)(A) refiled 11-7-95 as an emergency; operative 11-6-95 (Register 95, No. 45). A Certificate of Compliance must be transmitted to OAL by 4-14-96 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-30-95 order transmitted to OAL 11-22-95 and filed 1-8-96 (Register 96, No. 2).
10. Editorial correction of History 8 (Register 96, No. 21).
11. Reinstatement of subsections (d)(3)(A) and (e)(3)(A) as they existed prior to emergency amendment filed 5-30-95 pursuant to Government Code section11349.6(d) (Register 96, No. 21).
12. Amendment of subsections (d)(3)(A) and (e)(3)(A) filed 6-7-96 as an emergency; operative 6-7-96 (Register 96, No. 23). A Certificate of Compliance must be transmitted to OAL by 10-7-96 or emergency language will be repealed by operation of law on the following day.
13. Change without regulatory effect amending subsection (e)(2) filed 7-16-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 29).
14. Certificate of Compliance as to 6-7-96 order transmitted to OAL 10-3-96 and filed 11-18-96 (Register 96, No. 47).
15. Repealer of subsections (f)(3)(H), (g)(4)(H) and (h)(3)(H) and amendment of Note filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-11-98 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 1-2-98 order transmitted to OAL 6-9-98 and filed 7-21-98 (Register 98, No. 30).
17. Repealer of printed inmate time card, new subsection (b)(1), subsection renumbering and amendment of Note filed 10-23-2003 as an emergency; operative 10-23-2003 (Register 2003, No. 43). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 4-1-2004 or emergency language will be repealed by operation of law on the following day.
18. Change without regulatory effect amending subsections (d)(3)(A) and (e)(3)(A) filed 12-1-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 49).
19. Amendment of section and Note filed 12-30-2003 as an emergency; operative 1-1-2004 (Register 2004, No. 1). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 6-9-2004 or emergency language will be repealed by operation of law on the following day.
20. Amendment filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 10-23-2003 order transmitted to OAL 3-19-2004 and filed 5-3-2004 (Register 2004, No. 19).
22. Withdrawal and repeal of 12-30-2003 amendments filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 9-24-2004 or emergency language will be repealed by operation of law on the following day.
23. Amendment of section and Note, including relocation of former subsection 3044(g)(4)(G) to new section 3190(i)(3), filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
24. Amendment of section, including further amendments, refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
25. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).
26. Certificate of Compliance as to 6-17-2004 order, including further amendment of subsection (b)(5)(B), transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
27. Amendment filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3045. Timekeeping and Reporting.

(a) Inmate timekeeping logs. The attendance of each inmate assigned to a credit qualifying assignment shall be recorded daily on an approved timekeeping log. If the assignment began or ended during the reporting month, the date(s) of such activity shall be recorded on the timekeeping log. Only the symbols designated on the timekeeping log shall be used to document the inmate's attendance. The symbol(s) and applicable hours for each day shall be recorded in the space corresponding to the calendar day. This log shall be the reference for resolving complaints or appeals and shall be retained at a secure location designated by the facility management for a period of 4 years from the date of completion.

(1) Staff shall record the work or training time and absences of each inmate assigned to their supervision each day as they occur. At intervals designated by the institution head, the supervisor shall:

(A) Enter the totals, hours worked and ETO hours used in the designated columns of timekeeping log.

(B) Sign the log to authenticate the information.

(C) Forward the log to the division head for review and approval.

(2) Mismanagement or falsification of an inmate timekeeping log may result in adverse action and/or prosecution.

(b) Security of timekeeping logs. Inmates shall not have unauthorized access to any timekeeping logs.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal.App.3d 1224.

HISTORY:

1. New section filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).

2. Repealer and new section filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
3. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
4. Certificate of Compliance as to 8-7-87 ordered transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
5. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
6. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
7. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
8. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
9. Renumbering and amendment of former section 3045 to section 3045.2, relocation and amendment of former section 3044(a) and adoption of subsections (b) and (c) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
11. Editorial correction deleting language previously transferred to section 3045.2 (Register 93, No. 50).
12. Amendment filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3045.1. Timekeeping for Inmates in Administrative Segregation.

(a) A classification committee shall evaluate the reasons for an inmate's administrative segregation (ad. seg.) placement to ensure appropriate worktime credits are awarded the inmate. If the placement was for:

(1) A disciplinary infraction for which the finding was not guilty or pending an investigation where the inmate was released, the inmate shall retain their work/training group status at the time of their placement in ad. seg. unless otherwise impacted by a classification or disciplinary action.

(2) A disciplinary infraction for which the finding was guilty and the assessment of a SHU term, the inmate shall be placed in Work Group D-2 for the period of the credit loss assessment effective the date of their placement in ad. seg.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal. App. 3d 1224.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Renumbering and amendment of former section 3045.1 to section 3045.3 and adoption of new section 3045.1 filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-20-91 order including amendment of subsection (a)(2) transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
9. Repealer of subsection (b) filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
11. Amendment of subsection (a)(1) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3045.2. Excused Time Off (ETO).

(a) It is the policy of the California Department of Corrections that inmates assigned to work/training groups A-1 and B may use excused time off (ETO) during approved absences from their assigned work/training assignment in the manner set forth in this article.

(b) ETO shall be authorized by the work supervisor/employer in no less than 15-minute increments. The inmate shall not be required to use excused time off for any service that the department requires. An inmate who is ill and requires a medical lay-in or is short term medically unassigned for 29 days or less shall use ETO.

(c) Inmates who are ill may use ETO, but will be responsible for notifying the work/training supervisor. Sick time must be approved/authorized by the appropriate institution medical authority, Upon becoming capable of performing medically unrestricted work activities the inmate will be given priority to resume his/her previous assignment. If the assignment is not immediately available, the inmate will be placed in an assignment in his/her previous work/training group category.

(d) Authorized uses of ETO. Excused time off may be approved by work/training supervisors only for the below stated reasons. A proposal to use ETO for any other reason requires approval by the secretary.

(1) Family visiting. An inmate scheduled for a family visit may be permitted to visit in the visiting room (regular visit) on the first day of a family visit while awaiting processing, and on the last day of the family visit.

(2) Regular visiting under extraordinary circumstances. Following are extraordinary circumstances for which use of ETO is authorized:

(A) Out-of-state visitors. Upon substantiation that the visitor(s) resides out-of-state and is in California for a temporary stay of 30 days or less, and the visitor(s) has not visited with the particular inmate for four months. No more than two such visits shall be permitted for each such occurrence.

(B) Excessive distance. When a visitor must travel a distance of 250 miles or more, and has not visited the inmate within the last 30 days.

(C) Weddings. When an inmate marries, the inmate may, with five working days prior approval, use ETO for a visit on the wedding day.

(D) Handicapped. When a visitor is handicapped as defined by California law and must rely on special transportation to the institution. Approval is required five working days prior to the visit.

(E) Family emergencies. When death, serious illness or injury occurs to an inmate's immediate family member as defined in Section 3000, clergymen, family members or close friends may visit the inmate to offer condolences or inform the inmate of the occurrence.

(F) Infrequent visits. When a visitor unexpectedly arrives who has not visited in the last six months, the visit will be considered an infrequent visit.

(G) Visiting during authorized absence. An inmate shall be permitted to visit using ETO during approved periods away from assignment involving circumstances beyond the inmate's control. (Refer to section 3045.3 of these regulations.)

(H) Work assignment conflicts. When the inmate has not received a visit in the last 30 days and would otherwise be prohibited from visiting because of a conflict in work, training, or education assignment.

(3) Temporary community leave.

(4) Special religious functions, other than routine services.

(5) Non-routine recreation and entertainment activities.

(6) Emergency telephone access.

(e) Excused time off applies only to authorized time away from the work/training assignment.

(f) An inmate shall receive pay only for actual hours worked, and not for excused time off.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 2620, 2621, 2931, 2933 and 5054, Penal Code.

HISTORY:

1. New section filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Repealer and new section filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
3. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
4. Certificate of Compliance as to 8-7-87 ordered transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
5. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
6. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
7. Amendment of subsection (c), repealer and new subsection (e) and new subsection (i) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
8. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
9. Renumbering of former section 3045 to section 3045.2 and amendment of subsections (b) and (f) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
11. Change without regulatory effect amending subsection (e)(2)(G) filed 11-27-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 48).
12. Amendment of subsection (e)(2)(F) and new subsection (e)(2)(H) filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
13. Amendment of subsection (a), repealer of subsections (b), (f) and (g), subsection relettering and amendment of newly designated subsections (b)–(d) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).
14. Amendment of subsection (d)(2)(E) filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).

3045.3. "S" Time.

(a) "S" time shall be noted on timekeeping documents for an authorized absence from the inmate's work/training assignment by order of the prison administration. The inmate shall receive sentence-reducing credit commensurate with their designated work group. Inmates who are removed from their work/training assignment for the reasons noted below, shall retain their existing work/training group status unless otherwise impacted by a classification committee or disciplinary action.

(b) "S" time shall be authorized only for the following:

(1) Institutional lockdown.

(2) Emergency recall.

(3) Attorney visits.

(4) Fog or inclement weather conditions.

(5) Work/training supervisor's absence when no relief supervisor is provided.

(6) Removed to out-to-court status.

(7) Three working days prior to transfer to another institution.

(8) Ten working days prior to parole or discharge, including institution base camps. Conservation camp inmates shall receive 15 days "S" time prior to release.

(9) Thirty working days prior to parole or discharge of an inmate serving a term in another jurisdiction.

(10) Appearances at classification hearings or casework interviews which cannot be reasonably conducted during the inmate's off-duty hours.

(11) Staff interviews with inmates regarding a death or emergency involving a member of their immediate family as defined in section 3000.

(12) Emergency or life-threatening medical or dental treatment.

(13) A temporary interruption or delay in the inmate's work/training assignment which is no fault of the inmate.

(14) Medical consultant appointments with other than state employees.

(15) Inmate match job development and initial screening interview.

(16) Board of Prison Terms' hearings.

(17) Interviews with representatives of other governmental agencies.

(18) Delay in reporting to work/training assignment because of delayed meal schedule, unlocks, and clearing of the institutional count.

(19) Interview for staff preparation of a Penal Code Section 1170(d) report to the court.

(20) Temporary leave processing for a family emergency.

(21) A serious disciplinary hearing if overtime would be required for a staff witness to attend the hearing.

(22) Authorizations for any reason not listed in this section shall be considered on a case-by-case basis and require approval of the secretary or their designee.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 673, 1170, 2690, 2933 and 5054, Penal Code.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).

5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Renumbering and amendment of former section 3045.1 to section 3045.3 filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
9. Amendment of subsections (a) and (b), repealer of subsection (b)(4), subsection renumbering and amendment of newly designated subsection (b)(22) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).

3046. Workers' Compensation for Inmates.

Inmates are eligible for workers' compensation benefits for injuries sustained while performing assigned work while imprisoned. They are not eligible for benefits for injuries resulting from an assault in which the inmate was found to be the aggressor; an intentional act of self-inflicted injury; nor injuries sustained while assigned to academic and vocational education programs. The department is not liable for injuries sustained while a person is on parole or escape status.

(a) Inmates should immediately report any injury to their supervisor so that prompt medical attention can be given if needed, and for the supervisor's information and initiation of necessary reports.

(b) Inmates will have access to, and be given a copy upon request, of the department's guidelines covering workers' compensation for inmates. Such guidelines will be available at each institution's inmate assignment office or the office of the official responsible for inmate assignments; the inmate law libraries; each camp; and at or near the inmate's work location through the inmate's work supervisor.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601(i), 5054 and 5069, Penal Code; and Sections 3370 and 3351, Labor Code.

HISTORY:
1. New section filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8). For prior history, see Register 78, No. 33.

3047. Unemployment Compensation and Disability Benefits.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code; and Sections 1480–1481, Unemployment Insurance Code.

HISTORY:
1. New section filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8). For prior history, see Register 78, No. 33.
2. Change without regulatory effect repealing section 3047 (Register 87, No. 24).

Article 4. Food Services

3050. Regular Meals.

(a) Each inmate shall be provided a wholesome, nutritionally balanced diet. Nutrition levels shall meet the Recommended Dietary Allowances and Dietary Reference Intakes as established by the Food and Nutrition Board of the Institute of Medicine, National Academy of Science.

(1) Inmates confined in segregated housing shall be served food representative of that being served to general population inmates. Food shall not be withheld nor standard menu varied as a disciplinary sanction for any inmate.

(2) Inmates shall be provided three meals each day, two of which shall be served hot. Variations to the two hot meals per day requirement may be allowed to accommodate religious observances, religious meal programs, and institution emergencies. The breakfast meal shall be served not more than 14 hours following the previous day's evening meal.

(3) Pregnant inmates shall receive two extra eight ounce cartons of milk or a calcium supplement if lactose intolerant, two extra servings of fresh fruit, and two extra servings of fresh vegetables daily. A physician may order additional nutrients as necessary.

(b) Facility menus shall be prepared at least one week in advance and posted in locations accessible to all general population inmates. Inmates in segregation housing shall, upon request, be provided a weekly menu.

NOTE: Authority cited; Section 5058, Penal Code. Reference: Sections 2084 and 5054, Penal Code.

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
3. Amendment of article heading and section filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of History 2. (Register 92, No. 4).
5. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).
6. Amendment of subsection (a)(2) filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).
7. Amendment of subsection (a) and new subsection (a)(3) filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

3051. Use of Pork or Pork Derivatives.

(a) Pork or Pork derivatives may be part of meals within camp settings outside Institutions.

(b) Each menu food item containing pork or prepared in or seasoned with a pork derivative (including use of a shortening containing a pork product) shall be identified on the menu with a "P". Unless it can be determined with certainty that a food item does not contain pork or a pork derivative, that item shall be identified with an asterisk (*). A pork-free protein alternate shall be offered to those inmates who do not eat pork because of religious reasons.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2084 and 5054, Penal Code.

HISTORY:
1. Amendment of section filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).
3. Editorial correction of subsection (c) (Register 95, No. 42).
4. Amendment of section and Note filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3052. Health and Safety Standards.

(a) Standards for sanitation shall meet the requirements set forth in Health and Safety Code (H&SC) Sections 113945 through 114259.4 (California Retail Food Code (CFC)).

(b) An inspection of the food service area of each institution/camp shall be conducted at least once a year by the Department Food Administrator, Central Office, and/or a Department of Health Services' Environmental Health Specialist.

(c) The institution head or their designee shall conduct sanitation inspections of the institution/camp kitchens at least once a month to ensure compliance with the standards set forth in this section.

(d) Cooks and culinary officers shall conduct daily sanitation inspections of all workers who handle food to ensure cleanliness, proper attire, and the absence of open sores or any condition that may contaminate food.

(e) No person shall be assigned to handle food until instructed on the standards for sanitation as set forth in CFC, and on all requirements of this section.

(f) Food handlers shall keep their hands and fingernails clean, wear nets or caps entirely covering their hair, wear clean garments, and conform to and comply with CFC. A hand washing requirement sign shall be posted in each restroom used by on-duty food service workers.

(g) No inmate shall be assigned to the food service area until medically cleared to handle food.

(h) An inmate food handler with any condition which may contaminate food shall be referred to the medical department for examination and shall not return to work in the food service area until medically cleared.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Sections 113945 through 114259.4, Health and Safety Code.

HISTORY:

1. Amendment of section filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).
3. Amendment of section heading, section and Note filed 9-12-95; operative 10-12-95 (Register 95, No. 37).
4. Amendment of subsections (a)–(c) and (e)–(f) and Note filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).
5. Change without regulatory effect amending subsections (a), (e) and (f) and amending Note filed 12-18-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 51).

3053. Food for Religious Events.

(a) Inmate religious groups shall not be permitted more than two events each year where foods with religious significance are provided by the institution in place of the regularly planned meal. These event meals must be approved and sponsored by a Chaplain. For the purposes of this article, Chaplain means a local Institution Chaplain, or their designee representing the religious group.

(b) A Chaplain shall decide the two religious events when religious meals are provided. The religious group's request for ceremonial foods shall be directed to the institution head, or designee by the Chaplain at least 30 days, but no more than 90 days before the event, and shall include the following:

(1) Date and location of the event.

(2) Proposed menu.

(3) Number of inmates and/or guest to be served.

(4) Specific ceremonial foods.

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

HISTORY:

1. Renumbering and amendment of former section 3053 to section 3055 and adoption of new section 3053 filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).
3. Amendment of section heading and section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054. Religious Diet Program.

(a) Each institution shall make reasonable efforts, as required by law, to accommodate those inmates who have been determined, pursuant to CCR, Title 15, subsection 3054.3(b)(1), to require a religious diet.

(b) Each institution shall provide ongoing religious awareness training for custody and food service staff, and anyone involved in the Religious Diet Program.

(c) Religious meals shall not be restricted from inmates based on their classification or housing placement. Transferring inmates shall continue participating in their Religious Diet Program.

(d) Medical diets shall take precedence over religious diets.

(e) There shall be at least two distinct religious diet options:

(1) Vegetarian.

(2) Jewish kosher.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code.

HISTORY:

1. New section filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).
3. Editorial correction of History Note 1 (Register 95, No. 9).
4. Renumbering of former section 3054 to new section 3056 and new section filed 9-12-95; operative 10-12-95 (Register 95, No. 37).
5. Amendment of section heading, section and Note filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054.1. Religious Vegetarian Diet.

Religious vegetarian meals shall be available at all institutions. Inmates with determined religious dietary needs and showing a CDCR Form 3030-B (09/05), Religious Diet Card, which is incorporated by reference, shall be provided with an approved vegetarian protein alternative(s), often from that same days' scheduled meal.

NOTE: Authority cited: Sections 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code.

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).
2. Change without regulatory effect amending section filed 12-18-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 51).

3054.2. Jewish Kosher Diet.

(a) Jewish kosher meals shall be available at designated institutions. Jewish inmates may participate in the program, as determined by a Jewish Chaplain.

(b) Jewish inmates with unmet kosher dietary needs may, when classification is appropriate, be considered for transfer to another institution that can provide the Jewish inmate with a kosher diet.

(c) Jewish inmates shall not give away, trade, or sell a sack meal. Doing so may result in a compliance violation of the Religious Diet Program Agreement.

(d) All institutions will adhere to standardized departmental Jewish kosher diet program menus and approved procedures for purchasing, preparing, and serving kosher meals.

(e) Observance of Passover constitutes a single religious event, requiring kosher for Passover foods to be provided during the eight days of observance.

(f) Each institution shall arrange for ongoing and appropriate training for all inmate workers, and custody and food service employees involved in the supervising, ordering, preparation, and serving of kosher meals.

(g) The Jewish kosher diet program shall be administered in accordance with the provisions of this Article. A Jewish Chaplain shall:

(1) Determine inmate entry into the Jewish kosher diet program, oversee the program, and determine Jewish inmate compliance violations.

(2) Review each institution's Jewish kosher diet program annually. Provide results of the review to the Correctional Food Manager (CFM).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code.

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054.3. Participation in a Religious Diet Program.

(a) Any inmate who claims to require a religious diet shall be responsible for completing a CDCR Form 3030 (09/05), Religious Diet Request, which is incorporated by reference, and submitting it to the appropriate institution's Chaplain. No more than 15 calendar days shall pass from the day the Chaplain receives the completed CDCR Form 3030, Religious Diet Request, which results in a determination of program eligibility, to the day an accepted inmate begins receiving the religious meals requested.

(b) The Chaplain shall:

(1) Interview the inmate to explain the two religious diet options (including what the meals consist of) and determine the inmate's religious diet program eligibility.

(2) When religious diet program eligibility is determined, explain the department's Religious Diet Program Agreement.

(3) When applicable, have the inmate sign the CDCR Form 3030-A (09/05), Religious Diet Program Agreement, which is incorporated by reference, the CDCR Form 3030, Religious Diet Request, and the CDCR Form 3030-D (09/05), Religious Diet Program Cancellation Request, which is incorporated by reference. Document an inmate's refusal to sign any religious diet departmental forms.

(4) Complete and distribute the CDCR Form 3030, Religious Diet Request and/or the CDCR Form 3030-A, Religious Diet Program Agreement, within two working days.

(5) Notify the inmate of the decision in writing by copy of their CDCR Form 3030, Religious Diet Request.

(6) Enter pertinent information for each inmate approved to participate in a religious diet program onto a religious diet participant list within 24 hours of approval. Maintain, update the list every 30 days, and provide the CFM with a copy of the list of those inmates who have been determined eligible to receive a religious diet, and which diet they will receive.

(7) Regularly monitor the religious diet lists with Food Service staff to ensure that all inmate religious diet program participants are served their religious dietary meals with minimal delay.

(8) Coordinate with the CFM to determine which dining area will provide the inmate his/her meals.

(9) Provide each approved inmate with a CDCR Form 3030-B, Religious Diet Card. Collect Religious Diet Cards that are no longer valid.

(10) Meet with inmates, giving them the opportunity to respond to allegation(s) of Religious Diet Program Agreement compliance violations, prior to making a determination of continuing eligibility.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 383b, 5009 and 5054, Penal Code.

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054.4. Monitoring for Religious Diet Program Inmate Compliance.

Any incident of an alleged inmate Religious Diet Program Agreement compliance violation shall be reported using CDC Form 128-B, General Chrono, citing CCR, Title 15, section 3054. All reports shall be sent to the appropriate Chaplain, who shall consult with the inmate, make the final determination of continuing eligibility, and complete a CDCR Form 3030-C (09/05), Religious Diet Program Agreement-Notice of Non-Compliance, which is incorporated by reference. A copy of the completed CDCR Form 3030-C shall be provided to the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code.

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054.5. Meals Served to Non-Inmates.

The meal charge for state employees and persons other than official guests in state-operated dining rooms maintained and operated for inmates shall be $.85 plus sales tax. The meal charge for institution-operated employee dining rooms shall be in accordance with this article.

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

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3054.6. Reimbursement for State Purchased Food.

Outside guests attending inmate banquets, luncheons, or other special events where state-purchased food is provided shall be charged a minimum of $.85 plus sales tax per meal, per guest. Funds collected in excess of $.85 plus sales tax, for the event shall be accompanied by a statement, signed by a non-inmate representative of the group, which reads: ''We donate the sum of $_____ to the Inmate Welfare Fund.'' If the cost of the meals exceeds the allowance of $.85 per meal, an additional charge to the inmate group's trust account shall be made in accordance with this article.

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

HISTORY:

1. New section filed 4-24-2006; operative 4-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 17).

3055. Use of Food.

Inmates shall not steal, waste, or contaminate food or equipment used in preparing, processing or serving food. Inmates shall not remove any food from the dining room, kitchen, or food storage areas except as specifically authorized by facility staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 5054, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3053 to section 3055 filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).

3056. Meals Served to Non-Inmates.

Guests at an inmate banquet, luncheon or other special event shall be charged for state-purchased food. If funds collected from the guests for a meal are not the same as the allowed cost per meal, any excess shall be donated to the Inmate Welfare Fund; any deficiency shall be charged to the inmate group's trust account.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 5054, Penal Code; and Section 19822, Government Code.

HISTORY:

1. Renumbering of former section 3054 to new section 3056 filed 9-12-95; operative 10-12-95 (Register 95, No. 37).

Article 5. Personal Cleanliness

3060. Means.

Institutions will provide the means for all inmates to keep themselves and their living quarters clean and to practice good health habits.

Comment: Former DP-1501, policy, general.

3061. Personal Hygiene.

Inmates must keep themselves clean, and practice those health habits essential to the maintenance of physical and mental well-being.

Comment: Former DR-1501, personal hygiene.

3062. Inmate Grooming Standards.

(a) An inmate's hair shall be clean, neatly styled, and groomed, as specified in these regulations, when he/she is away from the immediate area of his/her quarters.

(b) An inmate's hair shall have no lettering, numbering, or designs of any kind cut, shaved, dyed, painted or in any way placed in the hair or on the scalp or face of the inmate.

(c) An inmate shall not alter the appearance of his/her hair by changing its natural color.

(d) An inmate shall not possess a wig or hairpiece unless deemed medically necessary by the Chief Medical Officer and authorized, in writing, by the appropriate division of adult institutions' associate director.

(e) An inmate's hair may be any length but shall not extend over the eyebrows, cover the inmate's face or pose a health and safety risk. If hair is long, it shall be worn in a neat, plain style, which does not draw undue attention to the inmate.

(f) An inmate may possess and use approved hair holding devices based on Section 3190.

(g) An inmate with hairstyles, including but not limited to braids, cornrows, ponytails, or dreadlocks, shall be required to unbraid, undo, or take down their hair, as applicable for thorough inspections, as instructed by custody staff to ensure hair is free of contraband.

(h) Facial hair, including short beards, mustaches, and sideburns are permitted for male inmates and shall not extend more than one-half inch in length outward from the face.

(i) An inmate who is assigned to work in food preparation, processing or serving areas, and/or around machinery, or in high fire hazard areas, may be required, for safety and sanitation reasons, to further limit his/her grooming in order to properly wear such health and safety equipment as is deemed necessary by staff, including but not limited to, hair nets, safety head coverings, etc.

(j) An inmate's fingernails shall not extend more than 1/4 inch beyond the tips of the fingers. Nails shall be neat and clean. Female inmates may be permitted to wear only clear nail polish.

(k) An inmate may not pierce any part of his/her body for the purpose of wearing an earring or other jewelry. A male inmate may not possess or wear earrings. A female inmate may wear authorized earrings with only one matching earring worn in each ear. An inmate shall not possess or wear any type of jewelry or other object intended to be worn as a body piercing adornment.

(*l*) A female inmate may wear cosmetics that blend with or match the natural, non-ruddy skin tone. False eyelashes are not permitted.

(m) An inmate who fails to comply with these grooming standards may be deemed a program failure, pursuant to Section 3062, subject to progressive discipline and classification committee review for appropriate housing and program placement. Physical force shall not be used to enforce compliance with these regulations, except as permitted by existing law or with a court order.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, *Warsoldier* v. *Woodford*, Case No.: 04–55879, DC No. CV-04–02233-RSWL, (July 2005); and *In re Corey Williams,* Case No.: SC133840A, (February 2004).

HISTORY:

1. Amendment of section heading and section and new Note filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of subsection (e) (Register 98, No. 19).
3. Certificate of Compliance as to 10-16-97 order, including amendment of subsection (m) and relocation and amendment of definition of ''Program failure'' from section 3000 to new subsection (n), transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
4. Amendment of subsection (h)(2) filed 8-25-2000; operative 9-24-2000 (Register 2000, No. 34).
5. Repealer of subsection (n) filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
6. Repealer of subsection (n) refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
8. Amendment of section and Note filed 1-17-2006 as an emergency; operative 1-17-2006 (Register 2006, No. 3). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-26-2006 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 1-17-2006 order transmitted to OAL 6-22-2006 and filed 7-27-2006 (Register 2006, No. 30).

3063. Tattoos.

Inmates shall not tattoo themselves or others, and shall not permit tattoos to be placed on themselves. Inmates shall not remove or permit removal of tattoos from themselves or others.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 653 and 2082, Penal Code.

HISTORY:

1. Amendment filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Amendment filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment filed 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Amendment filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.

6. Certificate of Compliance as to 2-21-96 order including amendment of section transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3064. Quarters.

Inmates must keep their quarters and surroundings neat, clean and sanitary. Inmates may not alter their quarters or equipment without specific authorization to do so.

Comment: Former DR-1504, care of quarters.

Article 6. Camp Assignment

3070. Regulations and Procedures.

HISTORY:

1. Repealer of article 6 (Sections 3070–3073) and section filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3071. Camp Limits.

HISTORY:

1. Repealer filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3072. Public Contact.

HISTORY:

1. Renumbering and amendment of former section 3072 to section 3266, and repealer of former section 3072 filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3073. Vehicles.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 6202, 6204 and 6206, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3073 to section 3294.1 and repealer of former section 3073 filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

Article 6.1. Alternative Sentencing Program

3074. Alternative Sentencing Program Establishment.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1173, et seq., and 5054, Penal Code; Chapter 1063, Statutes of 1992, section 4.

HISTORY:

1. New article heading and section filed 10-30-92 as an emergency; operative 10-30-92 (Register 92, No. 44). A Certificate of Compliance must be transmitted to OAL 3-1-93 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-30-92 order transmitted to OAL 2-9-93 and filed 3-12-93 (Register 93, No. 11).
3. Repealer filed 1-8-2002; operative 2-7-2002 (Register 2002, No. 2).

Article 6.3. The Family Foundations Program

3074.3. The Family Foundations Program.

(a) The Family Foundations Program (FFP) is a 12-month residential substance abuse treatment program for pregnant and/or parenting female inmates who have been determined by the court to benefit from participation, recommended by the court for placement, and are accepted by the Department to participate. Female inmates in the program will be placed in a Family Foundations facility in the community as an alternative to serving their prison term in a State prison institution.

(b) Eligibility. To be eligible, a female inmate shall be sentenced to serve a term of not more than 36 months and be recommended by the court to participate, must have an established history of substance abuse, and be either pregnant or the parent of a child under the age of six years. Medical/dental and mental health evaluations shall be performed prior to placement to determine the existence of health care conditions that would affect participation in the program or require a reasonable accommodation be provided to the participant.

(c) Ineligibility. Female inmates who have been convicted of violent crimes and other offenses enumerated in Penal Code section 1174.4 are excluded from the program. In addition, a woman is ineligible for the program if she has an active or potential United States Immigration and Naturalization hold; felony hold; her child is a dependent of the court and it has been determined by the representative of the appropriate county agency that it is not in the best interest of the child; she is determined by the Department to pose an unreasonable risk to the public; a staff physician or psychiatrist has determined that the inmate's medical or psychiatric condition is likely to cause an adverse effect upon the inmate or upon other persons if the inmate is placed in the program; or she is not willing to sign a CDC Form 1890, Voluntary Placement Agreement, (4/99), which is incorporated by reference, and outlines the obligations and responsibilities of program participants.

(d) Credit earnings and losses, including pre-sentence, behavioral, participation and work time credits shall not be applied while a woman is in the program. Participants who fail to complete the 12-month residential program shall have credit earnings and losses applied for time served in the program. Participants who fail the program for reasons identified in (e) below, shall be delivered to State prison where they shall serve the remainder of their original sentences. A classification committee hearing shall precede a participant's delivery to State prison.

(e) Adverse reasons for failure to complete the program include:

(1) Program participant fails to participate in programming activities; or,

(2) Program participant fails to comply with facility rules as presented in orientation; or,

(3) Program participant fails to participate in vocational/educational activities; or,

(4) Program participant fails urinalysis/drug or alcohol testing; or,

(5) Program participant demonstrates violent or disruptive behavior.

(f) Program participants may be removed from the program because of a health care condition that cannot be adequately managed in the FFP facility. Behavioral credit loss shall not be applied in such cases.

(g) Individualized treatment plans shall be developed for each participant and her child. The treatment plan shall be formulated as a result of an individual assessment performed by a program counselor. Each plan shall address the specific treatment needs of the participant and child including the treatment needs necessary for transitioning the participant to parole and/or another treatment program, and shall describe treatment goals for both mother and child and specific activities and services to achieve these goals. Changes to this plan may occur throughout the course of treatment and must be relevant to the participant's progress toward treatment goals. Individualized treatment plans shall address a full range of problems including those directly and indirectly related to:

(1) Substance abuse.

(2) Physical and mental health.

(3) Social services.

(4) Parenting skills.

(5) Vocational and educational skills.

(6) Long-term treatment goals.

(7) Treatment methods and resources.

(h) Early childhood care and development plans shall be developed for each child and shall address issues including, but not limited to:

(1) Immunizations and communicable diseases.

(2) Pediatric medical care.

(3) Nutrition.

(4) Psychological interventions.

(5) Communication skills.
(6) Motor skill development.
(7) Play therapies.

(i) Each participant shall be provided all of the following:

(1) Intensive substance abuse education classes and relapse prevention counseling.

(2) Classes, as appropriate, on topics such as domestic violence, incest survivors, family relationships, co-dependency, living with AIDS, child custody issues, and legal issues.

(3) Individual counseling sessions.
(4) Group counseling.
(5) HIV-AIDS counseling for pre- and post-HIV testing.
(6) Classes on parenting skills.
(7) Early childhood care and development services.
(8) Educational, vocational, and life skills training.
(9) Medically necessary health services pursuant to section 3350 et seq.

(j) Each participant shall be assigned a case manager and casework team, comprised of a social worker, facility manager, counselor, child development specialist, child care worker, nurse, and departmental custody staff person. The casework team will manage the participant's intake, orientation and treatment program for the duration of the 12 months.

(k) Transition planning for the participant's release from the facility to parole, shall begin in the first six months of the program with a written Transition Services Plan for each participant to be developed no later than the seventh month. Each participant's Transition Services Plan shall be initiated after nine months of participation in the program. Transition Services Plans shall consist of, but are not limited to, transitional housing, job placement or assistance, identification of available social services, etc.

(*l*) An outpatient transitional services program shall be developed for each participant and shall include a twelve-month period of intensive parole supervision pursuant to Penal Code Section 1174.2.

(m) The FFP shall maintain a zero tolerance for drugs and/or alcohol use. Frequent and random urine testing shall be conducted to detect any illegal drug use.

(n) Each facility shall maintain a library containing a variety of reference, fiction, self-help and children's books for use by participants and their children.

(o) Facilities shall accommodate requests for voluntary participation in religious programs.

(p) Facilities shall post visiting hours and conditions in English and Spanish and maintain a weekly visiting schedule for six hours on Saturday and six hours on Sunday of each week.

NOTE: Authority cited: Sections 1174.8(a) and 5058, Penal Code. Reference: Sections 1174–1174.9 and 5054, Penal Code.

HISTORY:

1. New article 6.3 (section 3074.3) and section filed 8-18-99 as an emergency; operative 8-18-99 (Register 99, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-25-2000 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-18-99 order, including further amendment of subsection (1) and Note, transmitted to OAL 12-2-99 and filed 1-13-2000 (Register 2000, No. 2).

Article 6.5. Intake, Release and Discharge of Inmates

3075. Initial Intake.

(a) Inmates received by the department shall be accompanied by either a copy of the minute order or an abstract of the judgment certified by the clerk of the court or judge. The inmate's identity shall be verified by staff to prevent inadvertent acceptance of a person not legally committed to the department.

(b) Upon staff's receipt of an inmate's cash, personal securities and property, a CDC Form 104 (Rev. 4/77), Inmate Property and Cash Receipt—Arrival, shall be completed.

(c) Each inmate shall be photographed and an identification card prepared. The identification photo shall be updated every five years or when there is a distinct change in the inmate's physical appearance. An inmate who noticeably changes his/her appearance will be charged for the cost of the updated identification photo/card, if the distinct change occurs anytime within the five year period.

(d) Each inmate shall be informed of the departmental grooming standards and afforded an opportunity to comply prior to being photographed. Each inmate will be advised that failure to comply with departmental grooming standards may result in the issuance of an administrative rule violation report and that a repeated pattern of administrative rule violations, may result in the inmate being deemed a program failure pursuant to Section 3000. The processing officer will document on a CDC 128-B, General Chrono, the inmate's refusal to comply with the departmental grooming standards. The CDC 128-B will be forwarded to records for the inmate's initial classification committee review.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1216, 2081.5, 2901, 3058.5, 4537 and 5054, Penal Code.

HISTORY:

1. Article 6.5 heading and new section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-20-91 order including amendment of Note transmitted to OAL 4-15-92 and filed 5-28-92 (Register 92, No. 22).
3. New subsection (d) filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-16-97 order, including further amendment of subsection (d), transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
5. Amendment of subsection (c) filed 1-17-2006 as an emergency; operative 1-17-2006 (Register 2006, No. 3). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-26-2006 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (d) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).
7. Certificate of Compliance as to 1-17-2006 order transmitted to OAL 6-22-2006 and filed 7-27-2006 (Register 2006, No. 30).

DEPARTMENT OF CORRECTIONS

STATE OF CALIFORNIA

DISTRIBUTION
ORIG: Inmate (White)
CC: Property File (Canary)
Trust Office (Pink)
Central File (Green)

PROPERTY AND CASH RECEIPTS – ARRIVAL

INMATE'S NAME	NUMBER	CASH PLACED IN INMATE'S ACCOUNT

DISPOSITION CODE: K=KEPT IN POSSESSION (WATCHES, RINGS, AND METALS VALUED LESS THAN $30)
M=MAIL D=DONATED S=HELD IN SAFE V=VAULT

QUANTITY	ARTICLES	DISP.	QUANTITY	ARTICLES	DISP.	QUANTITY	ARTICLES	DISP.
	BELT			SUIT			DENTURES	
	BLOUSE			SWEATER			DRIVER'S LICENSE	
	CAP			TANK TOP			EYEGLASSES	
	COAT			UNDERWEAR			KEYS	
	DRESS							
	HANDKERCHIEF							
	HAT			LEGAL PAPERS			MEDICAL ID	
	JACKET			LETTERS			MISC. ID	
	NECKTIE/SCARF			PHOTOS			MARR. CERT.	
	OVERCOAT			PURSE			BIRTH CERT.	
	PAJAMAS			BILLFOLD			SELL. SER. CARD	
	PANTS/SLACKS			BOOKS			SOC. SEC. CARD	
	SHIRT			BIBLE			RELIGIOUS MEDALS	
	SHOES			DICTIONARY			RING	
	SHORTS						SUNGLASSES	
	SKIRT						WATCH	
	SLIPPERS			COIN				
	SOCKS			CURRENCY				
	STOCKINGS			CANTEEN DOLLAR				

DESCRIPTION OF ITEMS ALLEGED BY INMATE TO HAVE A VALUE OVER $30

DESCRIPTION OF ITEMS "TO BE DESTROYED"

ARTICLES LISTED AS "MAIL" ABOVE ARE TO BE FORWARDED TO. NAME	ADDRESS
CITY	STATE AND ZIP CODE

CLAIM AND RELEASE

I relinquish all claim to the articles listed above as "Donated", and hereby acknowledge receipt of articles listed as "Kept in Possession". The above is a correct inventory of personal property in my possession at the time of admission.

SIGNATURE OF INMATE	DATE	WITNESSING OFFICER

I hereby authorize destruction of articles listed above as "To be Destroyed".

SIGNATURE OF INMATE	DATE	WITNESSING OFFICER

I hereby acknowledge receipt of the articles listed above as "Held in Safe" which was given to me upon my release from the institution.

SIGNATURE OF INMATE	DATE	WITNESSING OFFICER

CDC-104 (REV. 4/77)

86 96990

SAMPLE

3075.1. Intake Processing.

(a) A CDC Form 188-L (Rev. 3/89), Cumulative Case Summary, shall be prepared for each inmate committed to the department and shall include:

(1) CDC Form 188, Legal Status Summary.

(2) CDC Form 112 (Rev. 9/83), Chronological History.

(3) CDC Form 174 (Rev. 3/87), Probation Officer's Report (POR).

(4) Criminal Identification and Investigation (CI&I) Report.

(5) A psychiatric/psychological evaluation, when completed pursuant to (c) below.

(6) The Institutional Staff Recommendation Summary (ISRS) described in (h) below.

(7) CDC Form 816 (Rev. 2/03), Reception Center Readmission Summary.

(8) A summary of the inmate's social factors regarding the inmate's: religion; driver's license number; social security number; and the names, birthdays, addresses and occupations of parents and siblings; dates and status of marriages; names, birthdays and custody of children; and family arrest history.

(b) Information affecting an inmate's conditions of confinement or parole and sentence shall be solicited from sources outside the department, with or without the inmate's consent, and shall include California Youth Authority commitment history within the last five years and history of any federal, state or local commitment.

(c) A psychiatric or psychological evaluation shall be prepared for each inmate whose behavior or background information causes staff to believe a serious mental problem may exist.

(d) Casework information and documents important to the placement and supervision of the inmate shall include:

(1) CDC Form 127 (Rev. 5/00), Notification in Case of Inmate Death, Serious Injury, or Serious Illness.

(2) CDC Form 128-O (8/92), Document Receipt.

(3) CDC Form 345 (Rev. 5/95), Authorization for the Director to Maintain Trust Account.

(e) All questionable information shall be verified to the extent possible.

(f) Information obtained from other documents shall indicate the source. Unverified information affecting an inmate's conditions of confinement or parole and sentence shall be noted as unverified.

(g) Each inmate shall before initial classification be provided a copy of their CDC Form 188-L from which the CI&I Report and CDC Form 112 have been removed.

(h) An ISRS shall be prepared for each person committed with or returned as a parole violator with a new life term.

(1) The ISRS shall state the sources of information used and summarize the inmate's history of or status concerning: type of confidential information on file; holds or detainers; medical and dental requirements or limitations; results of a psychiatric or psychological referral; work experiences and skills; narcotics, drugs and alcohol use; escapes; arson offenses; sex-related offenses; academic and vocational needs or interests; necessary casework follow-up; the counselor's evaluation of the inmate; reentry plans if the inmate has six months or less to release; classification score and custody designation suffix; community correctional facility eligibility; and recommended facility placement.

(2) An ISRS prepared for a Penal Code section 1203.03 (referred to as a presentence diagnostic) case shall:

(A) Address the inmate's past criminal behavior.

(B) Include in the counselor's evaluation of the inmate a sentencing recommendation to the court.

(C) If the court commits the inmate to the department, include a supplemental report of any changes affecting the inmate's conditions of confinement or parole and sentence since the presentence summary and a recommended facility placement.

(i) A CDC Form 816, Reception Center Readmission Summary, shall be completed for parole violators who are returned to custody with new terms other than a life sentence.

(j) Information affecting an inmate's conditions of confinement or parole and sentence and received after completion of the ISRS or CDC Form 816 shall be incorporated into the inmate's file.

(1) If the information is received after a transfer recommendation endorsement, or the nature of the information indicates a proposed classification action inappropriate, the case shall be referred to a classification committee for reconsideration.

(2) Information received after the inmate has been transferred shall be forwarded to the inmate's new facility.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1203.01, 1203.03, 2930, 3002, 5054, and 5068, Penal Code.

HISTORY:

1. New section filed 11-5-92; operative 12-7-92 (Register 92, No. 45).
2. Change without regulatory effect amending subsection (d)(3) and adding new form filed 6-28-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 26).
3. Amendment of subsections (a), (a)(2) and (d)(1) filed 8-28-2000; operative 9-27-2000 (Register 2000, No. 35).
4. Change without regulatory effect amending subsection (a)(7) filed 8-21-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 34).

STATE OF CALIFORNIA
CDC 345 (Rev 5/95)

DEPARTMENT OF CORRECTIONS

AUTHORIZATION FOR THE DIRECTOR TO MAINTAIN TRUST ACCOUNT

Pursuant to Penal Code Sections 5008 and 5057, I understand that by signing this form, I authorize the Director of the California Department of Corrections to maintain a trust fund account in my name, thus enabling me to make purchases from the canteen. I understand that I am not required to sign this form. I also understand that if I do not complete and sign this form, my canteen privileges will be lost.

PLEASE MARK YOUR CHOICE

☐ I hereby authorize the Director of Corrections to maintain a trust account in my name. I also authorize any interest earned on monies held for me in such trust shall be deposited into the Inmate Welfare Fund.

☐ I choose **not** to authorize the Director of Corrections to maintain a trust account in my name. I acknowledge that it shall be my responsibility to ensure that any funds in my trust account are appropriately disbursed. I understand I shall have no canteen access. I shall notify my family and friends to refrain from sending me future monetary contributions.

Signed and delivered in the presence of:

_____ SIGNATURE OF WITNESS	_____ SIGNATURE OF INMATE
_____ TITLE	_____ CDC NUMBER

Executed at _____, California

this _____ day of _____, _____.
DAY MONTH YEAR

SAMPLE

3075.2. Releases.

(a) Day of release. Inmates, except as otherwise provided by applicable law and regulations, shall be released on their scheduled release date. Inmates shall not be retained beyond their discharge date.

(b) Release Instructions.

(1) Notification of registration requirements:

(A) An inmate required to register pursuant to Penal Code sections 290 or 457.1 or Health and Safety Code section 11590 shall be notified of the requirement before being released from custody.

(B) Such inmates shall complete a SS Form 8047, Notice of Registration Requirement, acknowledging notification of the requirement.

(2) Reporting instructions:

(A) The CDC Form 611 (Rev. 9/91), Release Program Study; CDC Form 1515 (Rev. 3/92), P&CSD Notice and Conditions of Parole; CDC Form 1570 (Rev. 12/89), Guidelines for Parole; and reporting instructions shall be explained to the inmate at least 45 days before their scheduled release to parole or, if less than 45 days remain as a result of a change in the inmate's legal status, as soon as possible.

(B) The CDC Form 611 shall specify a date, time, place and official to whom a newly released inmate shall report.

(C) Authorized delay in reporting. Any delay in reporting shall be in writing. The assigned parole agent may authorize a delay in reporting of no more than seven days from the parolee's scheduled reporting date. A delay of more than seven days shall require the authorization of a unit supervisor or higher staff. Parolees designated as high control cases shall not be granted a delay in reporting to their assigned parole agent.

(3) Notice and conditions of parole requirements:

(A) The CDC Form 1515 shall be interpreted or otherwise communicated to any parolee who does not understand or read English.

(B) A unit supervisor or higher-level staff may place an inmate or parolee refusing to sign the CDC Form 1515 into custody pending a revocation hearing.

(C) Any special conditions of parole imposed by the department shall be related to the inmate's commitment offense or to conduct that may reasonably lead to future criminal behavior.

(D) When a department-imposed special condition no longer applies to a parolee, a unit supervisor or higher-level staff may remove or modify any but the following department-imposed special conditions:

1. A prohibition on the use of alcoholic beverages pursuant to Penal Code section 3053.5 and 15 CCR 3901.9.4(b).

2. A requirement to participate in psychiatric treatment, unless parole outpatient clinic staff has recommended, in writing, that the treatment be discontinued.

(E) Within five days after verbally requiring or prohibiting specific behavior of a parolee, staff shall give the parolee written confirmation of such instructions.

(c) Release Clearances.

(1) Before release, an inmate shall be provided a CDC Form 162 (Rev. 1/66), Inmate Release Clearance, to obtain the signature indicating the release clearance of the facility officials as designated thereon, and return the form to the facility's receiving and release office.

(2) The original CDC Form 122 (Rev. 12/85), Property Receipt-Release, which is completed by receiving and release staff, shall be provided to the inmate before release.

(3) At time of release, the inmate shall sign a CDC Form 102 (Rev. 5/92), Release Statement and Clothing Authorization, acknowledging receipt of any cash, checks, and clothing.

(d) Release Allowances. A release allowance is a sum of money intended for the rehabilitative purpose of assisting in an inmate/parolee's reintegration into society, and shall only be provided to an inmate who is released from prison to the direct supervision of a parole agent in the community or is discharged from the jurisdiction of the Department of Corrections. Except as stipulated below, inmates with six months or more served on a sentence or parole violation shall be given $200, less the costs of clothing and public transportation provided by the facility in connection with their release. Parolees who willfully abscond shall forfeit any remaining release allowance otherwise due them.

(1) A release allowance shall not be provided to an inmate released to the custody of the federal government or another state unless the inmate is released from custody and available for parole supervision in California or a state under the interstate compact (Article 3 (commencing with section 11175) and Article 3.5 (commencing with section 11180) of Chapter 2 of Title 1 of Part 4 of the Penal Code). Inmates released to the custody and supervision of the U.S. Immigration and Naturalization Service and waiting for a deportation hearing date are not entitled to receive a release allowance.

(2) Inmates who are released to the custody of local law enforcement as a result of a detainer or hold are ineligible to receive a release allowance until the inmate is released from custody to direct parole supervision in the community. This includes a detainer or hold pursuant to commitment proceedings as a sexually violent predator (Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare & Institutions Code). If the local custody detainer or hold results in a new commitment, the inmate will be ineligible for release funds for the prior prison term(s).

(3) Work furlough inmates:

(A) Work furlough inmates may receive an advance of up to $100 of their release allowance.

(B) A work furlough inmate subject to Penal Code section 1168 and returned to the institution and whose parole date is rescinded shall receive $200 if six months or more has been served since rescission, or up to $200, as determined by the assigned parole agent, if less than six months has been served.

(C) A work furlough inmate subject to Penal Code section 1170 and returned to the institution for administrative reasons shall receive $200 upon release, less any amount previously advanced during work furlough.

(D) Release funds shall not be used to repay facility program costs.

(4) Parole violators returned-to-custody and serving:

(A) Six consecutive months or more shall receive $200.

(B) Less than six consecutive months shall receive $1.10 for each day or fraction thereof in custody on revocation status up to a maximum of $200.

(C) A local concurrent sentence exceeding the Board of Prison Terms' ordered revocation time shall receive funds only upon completion of the local concurrent term and after their release from jail.

(5) California Youth Authority wards confined in department facilities, and released:

(A) Within the state shall be given up to $10 cash in addition to transportation expenses and, if necessary, clothing which shall not exceed $20 in value.

(B) To independent placement may receive no more than $25 cash.

(6) Upon release from a revocation unit, parolees or civil addict parolees shall be provided bus transportation to their residence area plus $10 cash if the distance to their residence is less than 200 miles or $15 cash if such distance is 200 miles or more, if release is for one of the following reasons:

(A) Charges against the parolee were dismissed.

(B) Charges against the parolee were not substantiated.

(C) The parolee was continued on parole and a revocation term was not assessed.

(7) Inmates or parole violators transferred to the custody and supervision of the Department of Mental Health shall not be provided a release allowance until they are released to the community and are either under the direct supervision of a parole agent, or discharged to the community and no longer under the jurisdiction of the Department of Corrections.

(e) Transportation Arrangements.

(1) An inmate's transportation upon release shall be arranged by the facility, unless a private party has contacted the facility at least three days before the inmate's scheduled release, has offered to provide transportation, and the facility has approved the arrangement.

(2) Any transportation costs paid by the state shall be deducted from the inmate's release allowance.

NOTE: Authority cited: Sections 2713.1 and 5058, Penal Code. Reference: Sections 290, 457.1, 1168, 1170, 2713.1, 2901, 2962, 3053.5, 5054, 11175, 11176 and 11180, Penal Code; Section 11592, Health and Safety Code; and Sections 6601 and 6604, Welfare and Institutions Code.

HISTORY:

1. New section filed 6-27-94; operative 7-27-94 (Register 94, No. 26).
2. Amendment of subsections (d) and (d)(1), new subsections (d)(2) and (d)(7), repealer of subsection (d)(4), subsection renumbering, amendment of newly designated subsection (d)(3)(C) and amendment of Note filed 1-21-2003; operative 2-20-2003 (Register 2003, No. 4).

3075.3. Discharge Certificates.

(a) CDC Form 163 (Rev. 7/92), Certificate of Discharge, shall be issued to each person who has completed their commitment to the department.

(b) Such certificate shall be issued to the inmate before release and mailed to parolees after their discharge date.

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

HISTORY:

1. New section filed 6-27-94; operative 7-27-94 (Register 94, No. 26).

3075.4. Earned Discharge From Parole.

NOTE: Authority cited: Section 5058.3, Penal Code. Reference: Sections 667.5(c), 1192.7 and 5054, Penal Code.

HISTORY:

1. New section filed 10-1-2007 as an emergency; operative 10-1-2007 (Register 2007, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-10-2008 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2-25-2008 as an emergency; operative 2-25-2008 (Register 2008, No. 9). A Certificate of Compliance must be transmitted to OAL by 5-26-2008 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2008, No. 22).

3076. Recall of Commitment Recommendation Circumstances.

The director may recommend at any time to the sentencing court the recall of an inmate's commitment pursuant to Penal Code section 1170(d) for one or more of the following reasons:

(a) The inmate is terminally ill and is not condemned or sentenced to life without possibility of parole.

(b) It is evident from the inmate's exceptional behavior that is so extraordinary beyond simply complying with all regulations and procedures during incarceration that they have changed as a person and would be a positive asset to the community.

(c) Information which was not made available to the court in pronouncing the inmate's sentence is brought to the attention of the director, who deems the information would have influenced the sentence imposed by the court.

(d) The director deems that circumstances have changed to the extent that the inmate's continued incarceration is not in the interest of justice.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1170(d) and 5054, Penal Code.

HISTORY:

1. New section filed 5-20-92 as an emergency; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-20-92 order transmitted to OAL 9-9-92; disapproved by OAL and order of repeal of 5-20-92 order filed on 10-22-92 (Register 92, No. 43).
3. New section refiled 10-23-92 as an emergency; operative 10-22-92 pursuant to Government Code section 11346.1(h) (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-92 order including amendment of first paragraph and subsection (b) transmitted to OAL 12-18-92 and filed 2-3-93 (Register 93, No. 6).

3076.1. Recall of Commitment Consideration Criteria.

For inmates meeting one or more of the eligibility requirements of section 3076, the classification and parole representative shall consider the following criteria as may be applicable before recommending recall of commitment consideration for an inmate:

(a) The inmate is or is not terminally ill or, if diagnosed as having an illness, which results in death, the inmate has more than an estimated six months to live.

(b) The inmate's commitment offense is for one or more of the following felonies: murder, attempted murder, voluntary manslaughter, mayhem, rape with force or violence, sodomy with force or violence, oral copulation with force or violence, lewd acts on a child under 14 years of age, arson, and/or other felonies punishable by imprisonment for life.

(c) The inmate is or is not designated as a high notoriety case by the classification staff representative or their placement has or has not been ordered by the departmental review board because of an unusual threat to the safety of persons or public interest in the inmate's case.

(d) The court was aware of the inmate's imminent terminal status at the time of sentencing.

(e) The inmate's prior criminal history reflects a pattern of convictions for violent acts against persons pursuant to Penal Code section 667.5(c).

(f) The inmate has no prior criminal convictions preceding the commitment offense.

(g) There exists a documented victim or next of kin of the commitment offense in the community who would suffer fear from the release of the inmate back into the community.

(h) The inmate's documented institutional behavior reflects an ongoing, serious pattern of force, violence, assault, arson or predatory sexual behavior.

(i) The inmate is terminally ill and there are or are not verifiable community resources appropriate, sufficient, and immediately available to provide support and sustenance and to meet the inmate's medical and/or psychological needs upon release.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1170(d), 3043 and 5054, Penal Code.

HISTORY:

1. New section filed 5-20-92 as an emergency; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9-17-92 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-20-92 order transmitted to OAL 9-9-92; disapproved by OAL and order of repeal of 5-20-92 order filed on 10-22-92 (Register 92, No. 43).
3. New section refiled 10-23-92 as an emergency; operative 10-22-92 pursuant to Government Code section 11346.1(h) (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-92 order including amendment of first paragraph and subsection (c) transmitted to OAL 12-18-92 and filed 2-3-93 (Register 93, No. 6).

3076.2. Recall of Commitment Processing.

(a) Recall of Commitment Processing for Terminally Ill Inmates.

(1) Requests for a determination that an inmate is terminally ill and that they be considered for recall of commitment which are initiated by the facility at any time or by the sentencing court more than 120 days after the date of commitment shall be referred to the inmate's caseworker, who shall inform the inmate's treating physician or the facility's chief medical officer of the request.

(2) For the purpose of this regulation, the facility's chief medical officer must also concur with the treating physician's prognosis of the inmate.

(3) Within three working days of the caseworker advising the chief medical officer or the inmate's treating physician of the request or of a medical staff member's discovery of a medical condition appropriate for eligibility review, the chief medical officer shall determine if the inmate is terminally ill. This determination shall be documented on a CDC Form 128-C, Chrono-Medical-Psych-Dental, which shall include a description of the inmate's illness, physical condition, estimated life expectancy and desire to participate in a recall consideration, and which shall be submitted to the classification and parole representative.

(4) The classification and parole representative shall review the report and the inmate's central file and consider the criteria listed in section 3076.1 before recommending recall of commitment consideration for the inmate.

(5) If the classification and parole representative recommends against further recall consideration, the reasons shall be documented on a CDC Form 128-B, Chrono—General (Rev. 4/74), which shall be countersigned by the warden or chief deputy warden within three working days of receipt of the CDC Form 128-C. The original CDC Form 128-B shall be filed in the inmate's central file and a copy, excluding any confidential material as defined in section 3321, sent to the inmate.

(6) If the classification and parole representative determines that the case warrants recall consideration, the CDC Form 128-C shall be submitted to the inmate's caseworker, who shall investigate and evaluate the inmate's suitability for recommendation of recall and document their evaluation in a report, with the following attachments:

(A) The CDC Form 128-C.

(B) The inmate's cumulative case summary.

(C) A list of any victim notification or other special notification requirements.

(7) The institution's evaluation and recommendation for a Penal Code section 1170(d) recall of a terminally ill inmate, if in favor of recall or equivocal, or in all cases if the evaluation was originally requested by the sentencing judge or if the inmate's term of imprisonment is under the jurisdiction of the Board of Prison Terms pursuant to Penal Code section 1170.2, shall be signed by the warden or chief deputy warden and forwarded within twelve working days from the date of the CDC Form 128-C to department headquarters, and if the inmate's term of imprisonment is under the jurisdiction of the Board of Prison Terms pursuant to Penal Code section 1170.2, to the Board of Prison Terms.

(b) Recall of Commitment Processing for Non-Terminally Ill Inmates.

(1) Requests for consideration for recall of commitment which are initiated by the facility at any time or by the sentencing court more than 120 days after the date of commitment shall be referred to the classification and parole representative via the inmate's caseworker.

(2) Upon receipt of the request, the classification and parole representative shall consider the criteria listed in section 3076.1 and the inmate's central file before recommending recall of commitment consideration for the inmate.

(3) If the classification and parole representative recommends against further recall consideration, the reasons shall be documented on a CDC Form 128-B, Chrono—General (Rev. 4/74), which shall be countersigned by the warden or chief deputy warden. The original CDC Form 128-B shall be filed in the inmate's central file and a copy, excluding any confidential material as defined in section 3321, sent to the inmate.

(4) If the classification and parole representative determines that the inmate's case warrants recall consideration, the classification and parole representative's findings shall be submitted to the inmate's caseworker, who shall investigate and evaluate the inmate's suitability for recommendation of recall and document their evaluation in a report, with the following attachments:

(A) The inmate's cumulative case summary.

(B) A list of any victim notification or other special notification requirements.

(5) The institution's evaluation and recommendation for a Penal Code section 1170(d) recall of the inmate, if in favor of recall or equivocal, or in all cases if the evaluation was originally requested by the sentencing judge or if the inmate's term of imprisonment is under the jurisdiction of the Board of Prison Terms pursuant to Penal Code section 1170.2, shall be signed by the warden or chief deputy warden and forwarded to department headquarters, and if the inmate's term of imprisonment is under the jurisdiction of the Board of Prison Terms pursuant to Penal Code section 1170.2, to the Board of Prison Terms.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1170(d), 3043 and 5054, Penal Code.

HISTORY:

1. New section filed 5-20-92 as an emergency; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-20-92 order transmitted to OAL 9-9-92; disapproved by OAL and order of repeal of 5-20-92 order filed on 10-22-92 (Register 92, No. 43).
3. New section refiled 10-23-92 as an emergency; operative 10-22-92 pursuant to Government Code section 11346.1(h) (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-92 order including amendment of subsections (a)(1), (a)(3)–(5) and (b)(2) transmitted to OAL 12-18-92 and filed 2-3-93 (Register 93, No. 6).

3076.3. Victim Notification for Recall of Commitment Recommendations.

When informed that an inmate's commitment has been recommended for recall to the court, the inmate's classification and parole representative shall notify any victim of a crime committed by the inmate, or the victim's next of kin if the victim has died, provided that the victim or the victim's next of kin has requested notice of any hearing to review or consider the parole suitability or the setting of a parole date for the inmate, and the requesting party has kept the department or the Board of Prison Terms apprised of their current mailing address. The notification shall include the name and address of the court that will consider recall.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1170(d), 3043 through 3043.3 and 5054, Penal Code.

HISTORY:

1. New section filed 5-20-92 as an emergency; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-20-92 order transmitted to OAL 9-9-92; disapproved by OAL and order of repeal of 5-20-92 order filed on 10-22-92 (Register 92, No. 43).
3. New section refiled 10-23-92 as an emergency; operative 10-22-92 pursuant to Government Code section 11346.1(h) (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-92 order transmitted to OAL 12-18-92 and filed 2-3-93 (Register 93, No. 6).

Article 7. Furloughs and Temporary Leave

3080. Administration.

Institution and parole division staff will administer inmate work and educational furloughs and temporary community release programs in a prudent manner, and in keeping with the basic need for public protection.

Comment: Former DP-1701, policy, general.

3081. Compliance.

Inmates who are granted a furlough or temporary leave must comply with all departmental rules and regulations governing such programs; with any conditions for approval; and, with all applicable laws; and must meet eligibility requirements in accordance with departmental procedures and Sections 2690, 2691, 6250 et seq., 6263 of the Penal Code and Section 3306 of the Welfare and Institutions Code.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 6250–6253 and 6260, Penal Code; and Section 3306, Welfare and Institutions Code.

HISTORY:

1. Amendment filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).

3082. Temporary Leaves.

Temporary leaves will be granted only for inmates who meet the criteria for such leaves, as prescribed in guidelines established by the director, for the following reasons:

(a) Family Emergency. Emergency leaves will normally be considered only for attendance at services for deceased members of the inmate's immediate family, and for visits to critically ill members of the inmate's immediate family. Immediate family members are defined in section 3000.

(b) Prerelease Planning. Prerelease planning leaves may be considered for the purpose of employment interviews, making residential plans and for other reasons closely connected to release programs. A prerelease leave will not normally be granted earlier than 63 days before the inmate has an established or reasonably anticipated release date nor any earlier than is required to accomplish the purpose of a prerelease leave.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2690 and 5054, Penal Code.

HISTORY:

1. Amendment filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
3. Amendment of subsection (b) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
4. Change without regulatory effect amending subsection (a) filed 12-2-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 49).

3083. Court Hearing on Inmate's Children.

Upon a court order, inmates will be released to the custody of the sheriff for appearance in court in actions concerning termination of parental rights of an inmate or other parental or marital rights.

HISTORY:

1. Editorial correction of printing error (Register 92, No. 5).

Article 8. Appeals

3084. Definitions.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
2. Certificate of Compliance as to 5-18-89 order transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Change without regulatory effect repealing section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).

3084.1. Right to Appeal.

(a) Any inmate or parolee under the department's jurisdiction may appeal any departmental decision, action, condition, or policy which they can demonstrate as having an adverse effect upon their welfare. The decisions of the Departmental Review Board which serve as the director's level decision are not appealable and conclude the inmate's or parolee's departmental administrative remedy pursuant to section 3376.1.

(b) Institution staff shall provide the assistance necessary to ensure that inmates who have difficulty communicating in written English have access to the appeal process.

(c) The department shall ensure departmental appeal forms and forms prescribed by the Board of Parole Hearings, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Joint Venture Program for appeal of decisions, actions, or policies within their jurisdictions, are readily available to all inmates and parolees.

(d) No reprisal shall be taken against an inmate or parolee for filing an appeal. This shall not prohibit appeal restrictions against an inmate or parolee abusing the appeal process as defined in section 3084.4.

(e) An appeal alleging misconduct by a departmental peace officer as defined in section 3291(b) shall be accompanied by a Rights and Responsibility Statement as shown in section 3391(d). Failure to submit this form will be cause for rejecting the appeal, in accordance with section 3084.3(c)(5).

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 148.6, 832.5 and 5054, Penal Code, *Chaker* v. *Crogan* (9th Cir 2005) 428 F. 3d 1215.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89. For prior history, see section 3003.
2. Certificate of Compliance as to 5-18-89 order including a clarifying change of subsection (b) transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Amendment of subsection (a) filed 1-16-92; operative 2-17-92 (Register 92, No. 13).

4. Amendment of subsections (a) and (d), new subsection (e), and amendment of Note filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a) and (d), new subsection (e), and amendment of NOTE: refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of History 5 (Register 97, No. 24).
7. Certificate of Compliance as to 5-29-97 order, including amendment of subsections (a) and (e), transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).
8. Amendment of subsection (c) filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).
9. Amendment of subsection (e) and amendment of Note filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 4-12-2007 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11-3-2006 order transmitted to OAL 3-12-2007 and filed 4-19-2007 (Register 2007, No. 16).

3084.2. Appeal Preparation.

(a) Form requirement. The appellant shall use a CDC Form 602 (rev. 12-87), Inmate/Parolee Appeal Form, to describe the problem and action requested. Initial requests or grievances based on a disability as defined in Title 42, U.S.C. section 12102 shall be filed pursuant to section 3085.

(1) A limit of one continuation page, front and back, may be attached to the appeal to describe the problem and action requested in Sections A and B of the form.

(2) Only supporting documentation necessary to clarify the appeal shall be attached to the appeal.

(b) Informal attempt prerequisite. The inmate or parolee shall attempt to resolve the grievance informally with the involved staff, unless excepted by sections 3084.5(a)(3) and 3084.7.

(c) Place of filing. At the formal levels, the appeal shall be forwarded to the appeals coordinator within the time limits prescribed in section 3084.6.

(d) Appellant submittal. An inmate or parolee shall not submit an appeal on behalf of another inmate or parolee, except as provided in subsection (f). An inmate, parolee or other person may assist another inmate or parolee with preparation of an appeal unless the act of providing such assistance would create an unsafe or unmanageable situation.

(e) Limit of system. The department's appeal procedure shall not be used to appeal the decisions or actions of other agencies, except as provided by section 3084.7.

(f) Group appeal. If a group of inmates intend to appeal a decision, action, or policy affecting all members of the group, one appeal form with the name and departmental identification number of the inmate who prepared the appeal shall be submitted.

(1) A legible list of the participating inmates' names, signatures, departmental identification numbers, and housing shall be attached to the appeal.

(2) The inmate submitting the appeal shall be responsible for sharing the written response with the inmates who signed the appeal attachment.

(3) If the inmate submitting the appeal is transferred or released, responses shall be directed to the first or next inmate on the appeal list attachment, who shall be responsible for sharing the response with the other inmates identified on the attachment.

(g) Multiple appeals of the same issue. If more than one appeal regarding the same issue is received.

(1) All such appeals shall be logged.

(2) A written response shall be given to the original appellant.

(3) A copy of the response, with the original appellant's name and number removed, shall be given to each of the other appellants.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; and section 35.107, Title 28, Code of Federal Regulations.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
2. Certificate of Compliance as to 5-18-89 order transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. New subsection (g) filed 5-6-92 as an emergency; operative 5-6-92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-6-92 order transmitted to OAL 8-31-92 and filed 10-7-92 (Register 92, No. 41).
5. Amendment of subsection (a) and Note filed 4-7-95 as an emergency pursuant to Penal Code section 5058; operative 4-7-95 (Register 95, No. 14). A Certificate of Compliance must be transmitted to OAL by 9-14-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-7-95 order transmitted to OAL 6-26-95 and filed 7-25-95 (Register 95, No. 30).
7. Amendment of subsections(a)(1), (a)(2), (c) and (f)(1) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (a)(1), (a)(2), (c) and (f)(1) refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
9. Editorial correction of History 8 (Register 97, No. 24).
10. Certificate of Compliance as to 5-29-97 order, including amendment of subsection (c), transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).

3084.3. Screening Appeals.

(a) Appeals coordinator. Each institution head and parole region administrator shall designate an appeals coordinator, at a staff position level no less than correctional counselor II or parole agent II, who shall prior to acceptance for review screen and categorize each appeal originating in their area for compliance with these regulations, and shall coordinate the processing of appeals.

(b) Unclear appeal issue.

(1) When a group appeal is received, one or more of the participating inmates shall be interviewed to clarify the issue under appeal.

(2) When multiple appeals of the same issue are received, the original appellant and, as needed for clarification of issues, one or more of the other appellants shall be interviewed.

(3) When an appeal indicates the appellant has difficulty describing the problem in writing or has a primary language other than English, the appeals coordinator shall arrange an interview with the appellant to provide assistance in clarifying or completing the appeal.

(c) Rejection criteria. An appeal may be rejected for any of the following reasons:

(1) The action or decision being appealed is not within the jurisdiction of the department.

(2) The appeal duplicates the appellant's previous appeal upon which a decision has been rendered or is pending.

(3) The appeal concerns an anticipated action or decision.

(4) The appellant has not included evidence of attempt to resolve the grievance at the informal level, unless the informal level is waived by these regulations.

(5) The appeal is incomplete or necessary supporting documents are not attached.

(6) Time limits for submitting the appeal are exceeded and the appellant had the opportunity to file within the prescribed time constraints.

(7) The appeal is filed on behalf of another inmate or parolee, except as provided in section 3084.2(f).

(8) The appeal constitutes an abuse of the appeal process pursuant to section 3084.4.

(d) Written rejection. When rejecting an appeal, the appeals coordinator shall complete an Appeals Screening Form, CDC Form 695 (rev. 5-83), explaining why the appeal is unacceptable. If rejection is based on improper documentation, the form shall provide clear instructions regarding further action the inmate must take to qualify the appeal for processing.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
2. Certificate of Compliance as to 5-18-89 order transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Amendment of subsection (b) and new subsections (b)(1)–(2) filed 5-6-92 as an emergency; operative 5-6-92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-6-92 order transmitted to OAL 8-31-92 and filed 10-7-92 (Register 92, No. 41).
5. Amendment of subsection (a) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (a) refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of History 6 (Register 97, No. 24).
8. Certificate of Compliance as to 5-29-97 order transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).

3084.4. Appeal System Abuse.

(a) Excessive filings. One appellant's submission of more than one non-emergency appeal within a seven-calendar-day period shall be considered excessive.

(1) When an appellant submits excessive appeals, the first appeal received shall be processed normally and all subsequent non-emergency appeals filed within the seven-calendar-day period by that individual shall be suspended.

(2) The appeals coordinator shall consult with the chief, inmate appeals, who shall determine further action to be taken on the suspended appeals.

(3) Upon determination of abuse, the chief, inmate appeals, shall authorize the appeals coordinator to prepare a notice restricting the inmate to one appeal per month for six consecutive months.

(4) Any subsequent violations of the appeal restriction shall result in an extension of the restriction for an additional six-month period.

(b) Inappropriate statements. An appeal containing false information, or profanity or obscene language shall be rejected.

(c) Excessive verbiage. Appeals in which the grievance or problem cannot be understood or is obscured by pointless verbiage or voluminous unrelated documentation shall be rejected, except as provided in sections 3084.1(b) and 3084.3(b).

(d) Lack of cooperation. An appellant's refusal to be interviewed or cooperate with the reviewer shall result in cancellation of the appeal.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
2. Certificate of Compliance as to 5-18-89 order including a clarifying change of subsections (a) and (b) transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Amendment of subsections (a), (a)(1) and (a)(3), repealer and new subsection(a)(4), and amendment of subsections(b) and (d) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (a), (a)(1) and (a)(3), repealer and new subsection (a)(4), and amendment of subsections (b) and (d) refiled 5-29-97 as an emergency, operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of History 4 (Register 97, No. 24).
6. Certificate of Compliance as to 5-29-97 order, including amendment of subsection (d), transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).

3084.5. Levels of Appeal Review and Disposition.

(a) Informal level. The informal level is that at which the appellant and staff involved in the action or decision attempt to resolve the grievance informally.

(1) Unless excepted pursuant to subsection (3) evidence of an attempt to obtain informal level review is required before an appeal may be accepted for formal review.

(2) When an appellant attempts to resolve an appeal at the informal level, the employee contacted by the appellant shall review and if practical resolve the grievance. The employee shall report the action taken in the response space provided on the appeal form, and shall sign and date the form.

(3) The informal level shall be waived for appeal of:

(A) Classification committee actions.

(B) Serious disciplinary infractions.

(C) Classification staff representative actions.

(D) Departmental regulations, policies, or operational procedures.

(E) Exceptional circumstances defined in section 3084.7.

(F) Any action, which the appeals coordinator determines, cannot be resolved informally.

(G) Alleged misconduct by a departmental peace officer.

(H) The denial of disabled inmate or parolee requests for reasonable modification or accommodation filed on CDC Form 1824 (1/95), Reasonable Modification Or Accommodation Request, pursuant to section 3085.

(b) First formal level. All appeals shall be initially filed and screened at the first level. The appeals coordinator may bypass the first formal level for appeal of:

(1) A policy or procedure implemented by the institution head.

(2) A policy, procedure or regulation implemented by the department.

(3) An issue, which cannot be resolved at the division head's level; e.g., appeal of a regular transfer.

(4) Serious disciplinary infractions.

(c) Second formal level. Second level is for review of appeals denied at first level or for which first level is otherwise waived by

these regulations. The second formal level, with the exception provided in section 3084.7(d)(4)(B), shall be completed prior to the appellant filing at the third formal level.

(d) Third formal level. Third level is for review of appeals not resolved at second level with the exception provided in section 3084.7(d)(4)(B).

(e) Appeal review. Formal appeals shall not be reviewed by a staff person who participated in the event or decision being appealed, or who is of lower administrative rank than any participating staff, or who participated in review of a lower level appeal refiled at a higher level.

(1) Second level review shall be conducted by the institution head or regional parole administrator, or their designee. Institution heads and regional parole administrators are not prohibited from reevaluating their own decisions or actions at the second level, and shall respond to appeals filed against them personally for allegations of peace officer misconduct.

(2) Third level review constitutes the director's decision on an appeal, and shall be conducted by a designated representative of the director under supervision of the chief, inmate appeals.

(f) Interview requirements. A personal interview shall be conducted with the appellant at the first level of review unless:

(1) First level was waived. In such case a personal interview shall be conducted with the appellant at the second level.

(2) The reviewer has decided, before interviewing the appellant, to grant the appeal.

(3) The appellant is not present at the institution where the appeal was filed. In such case, a telephone interview with the appellant shall meet the interview requirement.

(A) If the appeal concerns a disciplinary action, the telephone interview may be waived if the appeals coordinator determines an interview would not provide additional facts.

(B) If the appellant is not available for telephone interview, the reviewers shall request the caseworker in the jurisdiction where the appellant is located to complete the interview and provide a written report.

(g) Written response. At each level of review not waived, the original appeal shall be returned to the appellant with a written response stating the appeal issue and reasons for the decision.

(h) Disciplinary appeals. When procedural or due process requirements provided inmates in disciplinary proceedings have been violated, one of the following remedies shall be considered:

(1) The original disposition shall be vacated and the charges dismissed if the reviewer determines that the findings of the disciplinary hearing were not supported by the evidence presented at the hearing and any of the following circumstances are evident:

(A) The charge was based on information later determined to be false or unsubstantiated.

(B) A new hearing would not likely produce additional information.

(C) Elapsed time makes it unlikely the accused can present an adequate defense.

(D) Witnesses whose absence would prevent the accused from presenting an adequate defense are no longer available.

(2) The original disposition shall be vacated and a new hearing ordered if the reviewer determines that any of the following requirements were not met:

(A) The accused was not given copies of required documents within specified time limits before the hearing and did not waive the time limits.

(B) The charges were based on confidential information and the accused was not given a copy of the CDC Form 1030 (Rev. 12/86), Confidential Information Disclosure.

(C) Confidential information was used and the disciplinary findings did not address the reliability of the source and the validity of the information.

(D) The accused was denied witnesses, or when security was an issue, denied statements of witnesses, which would, in the opinion of the reviewer, have contributed significant information.

(E) The accused was not allowed to speak or present documentation in their own defense.

(F) The accused was not assigned a staff assistant or interpreter if required.

(G) An investigative employee was not assigned if required, or if assigned, the investigative employee did not adequately perform their task and it appears that such an investigation would have assisted the accused or hearing officials.

(3) When a disciplinary charge is ordered reheard, a new CDC Form 115 shall be written and processed. The disciplinary time constraints shall begin on the date the new CDC Form 115 is written except when an inmate is being returned to a facility for a disciplinary rehearing, the time constraints shall begin upon the inmate's return to that facility.

(i) Delay in Disposition. An administrator may delay for up to 90 days the implementation of a decision affecting an appellant when such delay will not threaten institution security, the safety of any person, or create a serious operational problem.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; and Section 35.107, Title 28, Code of Federal Regulations.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89. For prior history, see section 3003(a) and (b).
2. Certificate of Compliance as to 5-18-89 order including amendment of subsections (a) and (g) transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. New subsection (a)(3)(F), amendment of subsection (b), new subsections (g) and (h), and relettering of subsection (g) to (i) filed 5-6-92 as an emergency; operative 5-6-92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-6-92 order transmitted to OAL 8-31-92 and filed 10-7-92 (Register 92, No. 41).
5. New subsection (a)(3)(G) filed 2-1-93 as an emergency; operative 2-1-93 (Register 93, No. 6). A Certificate of Compliance must be transmitted to OAL 6-1-93 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-1-93 order transmitted to OAL 5-20-93 and filed 6-8-93 (Register 93, No. 24).
7. New subsection (a)(3)(H) and amendment of Note filed 4-7-95 as an emergency pursuant to Penal Code section 5058; operative 4-7-95 (Register 95, No. 14). A Certificate of Compliance must be transmitted to OAL by 9-14-95 or emergency language will be repealed by operation of law on the following day.
8. New subsection (b)(4) filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
9. Certificate of Compliance as to 4-7-95 order transmitted to OAL 6-26-95 and filed 7-25-95 (Register 95, No. 30).
10. Amendment of subsections (c), (d) and (e)(1) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsections (c), (d) and (e)(1) refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of History 11 (Register 97, No. 24).
13. Certificate of Compliance as to 5-29-97 order transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).

3084.6. Appeal Time Limits.

(a) Commencement. Time limits for submitting or reviewing appeals shall commence upon the date of receipt of the appeal document by the appeals coordinator or the appellant.

(b) Departmental response. Appeals shall be responded to and returned to the appellant by staff within the following time limits:

(1) Informal level responses shall be completed within ten working days.

(2) First level responses shall be completed within 30 working days.

(3) Second level responses shall be completed within 20 working days, or 30 working days if first level is waived pursuant to section 3084.5(a)(3).

(4) Third level responses shall be completed within 60 working days.

(5) Exception is authorized in the event of:

(A) Unavailability of the appellant, or staff or inmate witnesses.

(B) Complexity of the decision, action, or policy.

(C) Necessary involvement of other agencies or jurisdictions.

(6) Except for the third formal level, if an exceptional delay prevents completion of the review within specified time limits, the appellant shall be informed in writing of the reasons for the delay and the estimated completion date.

(c) Inmate or parolee response. An appellant must submit the appeal within 15 working days of the event or decision being appealed, or of receiving an unacceptable lower level appeal decision.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; Sections 19572, 19583.5 and 19635, Government Code; and *Brown* v. *State Personnel Board* (1985, 3d Dist), 166 Cal App 3d 1151, 213 Cal Rptr 53.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
2. Certificate of Compliance as to 5-18-89 order including amendment of subsection (b) transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Amendment of subsections (b)(1)–(5), repealer and new subsection (b)(6)(D), amendment of subsections (b)(7) and (c), and repealer of subsections (c)(1) and (c)(2) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (b)(1)–(5), repealer and new subsection (b)(6)(D), amendment of subsections (b)(7) and (c), and repealer of subsection (c)(1) and (c)(2) refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of History 4 (Register 97, No. 24).
6. Certificate of Compliance as to 5-29-97 order, including amendment, transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).

3084.7. Exceptions to the Regular Appeals Process.

(a) Emergency Appeals. Usual time limits for staff response shall not apply to emergency appeals, which shall be resolved in the shortest practical time.

(1) When circumstances are such that the regular appeal time limits may result in a threat to the appellant's safety or cause other serious and irreparable harm, the appeal shall be processed as an emergency appeal. Such circumstances include, but are not limited to:

(A) Need for protective custody.

(B) Decision was made to transfer the appellant to an institution housing an enemy.

(C) The appellant was scheduled for parole within 15 calendar days and is appealing a serious disciplinary action resulting in credit loss extending the release date.

(2) The appeal shall be submitted directly to the appeals coordinator and include substantiation of circumstances warranting emergency processing of the appeal.

(A) If the appeals coordinator determines emergency processing is unwarranted, the inmate shall be notified and the appeal shall be processed as a regular appeal.

(B) If emergency processing is warranted, the first level shall be waived and the second level review shall be completed within five working days.

(C) If dissatisfied with the second level response, the appellant may resubmit the appeal to the appeals coordinator who shall telefax it to the chief, inmate appeals, for a third level review which shall be completed within five working days.

(b) Disciplinary Appeals.

(1) A second level review shall constitute the department's final action on appeals of disciplinary actions classified as ''administrative'' pursuant to section 3314; and Custodial Counseling Chronos, CDC Form 128-A (rev. 4-74), documenting minor disciplinary infractions pursuant to section 3312(b).

(2) Appeals of disciplinary actions classified as ''serious'' pursuant to section 3315, where credit loss is a sanction, may be appealed through the third level. Within 15 working days of receipt of the department's third level denial of a disciplinary credit loss appeal, the appellant may demand a Board of Prison Terms review. The appellant shall submit the written demand for such review, with a copy of the department's final decision, to the institution's classification and parole representative or the parole region's appeals coordinator who shall within five working days forward the material to the Board.

(c) Combined Disciplinary and Parole Rescission Hearing Appeals.

(1) When the outcome of a pending disciplinary hearing may impact a Board of Prison Terms' parole rescission hearing on the same individual, a combined hearing may be held wherein the evidence is considered by both departmental and Board staff in arriving at their separate decisions.

(2) When any aspect of a combined disciplinary and parole rescission hearing is appealed, first and second level review shall be waived. The appeal shall be forwarded to the chief, inmate appeals, for a combined review by the department and the Board of Prison Terms.

(d) Transfer Appeals. A decision for transfer to another institution may be appealed by the affected inmate after endorsement by the classification staff representative.

(1) Filing of an appeal of a transfer decision shall not normally be cause to stay or delay a transfer.

(2) Regular transfer appeals:

(A) Informal and first level of appeal shall be waived.

(B) If the appeal is granted at second level, the appellant's case shall be presented to a second classification staff representative for reconsideration.

(C) If the second classification staff representative disagrees with second level appeal response, the institution head may submit the case to the departmental review board for final decision.

(D) If the appeal is denied at second level or the institution head does not refer the case to the departmental review board, the appellant may appeal at the third level.

(3) Reception center transfer appeals:

(A) The informal level shall be waived.

(B) First level review shall be conducted by the reception center's correctional administrator.

(C) If the appeal is granted, the appellant may be retained at the reception center until the case is presented to a second classification staff representative for reconsideration.

(D) If the second classification staff representative disagrees with the first level appeal decision, the appellant may resubmit the appeal for second level review.

(E) Second level review shall be conducted by the institution head, who may retain the appellant at the reception center as a second level re-view action and refer the appeal to the departmental review board for resolution. The board's decision shall constitute final review.

(F) If the appeal is denied at first or second level, the appellant may appeal at the third level.

(4) Involuntary transfer to the California Medical Facility or Atascadero State Hospital:

(A) Following a hearing on the psychiatric need for an involuntary transfer to the California Medical Facility or Atascadero State Hospital, the inmate shall be provided with a copy of the written decision pursuant to Section 3379(d).

(B) The inmate may appeal the written decision, directly to the third level, within 30 calendar days of receipt of the decision.

(C) A copy of the hearing decision shall be attached to the appeal.

(e) Lost or damaged personal property appeals.

(1) All property loss or damage arising from the same event or action shall be included in one appeal.

(2) Replacement or restoration of property.

(A) An attempt shall be made by staff to use local resources to substitute for, or replace lost property at no cost to the state, or to repair the item at institution expense.

(B) An appellant's refusal to accept repair, replacement, or substitution of like items and value shall be cause to deny the appeal.

(3) The document denying a property claim appeal at the third level shall inform the appellant of the right to file a claim directly with the board of control, and shall provide instructions for such filing.

(4) Reimbursement for loss. The reimbursement shall not exceed the limit imposed by property procedures and regulations (Subchapter 2, Article 9, Personal Property).

(A) Reimbursements for $100 or less shall require endorsement at either the second or third level of review.

(B) Reimbursements for more than $100 shall require both third level endorsement and Board of Control approval.

(C) Before payment of any granted claim, the appellant shall sign an Inmate/Parolee Board of Control Release Form, CDC Form 813 (rev. 2-86), discharging the state from further liability for the claim pursuant to Government Code section 965. The appellant shall be provided with a copy of the completed form.

(f) Re-Entry or Work Furlough Placement and Parole to County of Commitment Appeals. An inmate pending release to the community and dissatisfied with a parole staff decision regarding the release program or the location of placement may submit an appeal requesting administrative review of the decision.

(1) Re-entry or work furlough placement appeals.

(A) The informal level. Appeal of denial of placement into specific re-entry or work furlough locations shall be submitted by the appellant to the institution caseworker who prepared Section A of the Release Program Study, CDC Form 611 (rev. 10-88). The caseworker shall compare the assigned parole region's reasons for denial with the facts contained in the inmate's central file, interview the inmate, and record all information obtained on a CDC Form 128-B (rev. 4-74).

(B) The first level appeal shall be submitted to the appeals coordinator of the parole region where the denial of placement was made. A copy of the CDC Form 128-B (rev. 4-74) shall be attached to the appeal.

(C) The supervisor of the staff person who denied placement shall conduct the first level review and the regional parole administrator or designee shall conduct the any second level review.

(2) Return to county of commitment appeals.

(A) An appeal concerning parole to county of commitment shall not be accepted until the Release Program Study, CDC Form 611 (rev. 10-88), has been completed and returned to the institution.

(B) The appeal shall be sent to the appeals coordinator of the parole region where such study was completed. The informal level of review shall be waived.

(C) The assistant regional parole administrator shall provide the first level review and the regional parole administrator shall provide the second level review, if any.

(D) The inmate may appeal to third level if dissatisfied with second level response.

(g) Conditions of Parole Appeals. An inmate dissatisfied with conditions of parole imposed by departmental staff may submit an appeal requesting removal or change of the conditions.

(1) Within 15 working days following receipt of the decision outlining conditions of parole, the appellant shall submit the appeal form directly to the appeals coordinator of the parole region where the case is assigned.

(2) The informal and first level reviews shall be waived. The appeals coordinator shall forward the appeal to the regional parole administrator for second level review.

(3) An appellant dissatisfied with second level review decision, may file the appeal at third level.

(4) An appellant dissatisfied with a third level review decision may submit the appeal to the Board of Prison Terms pursuant to 15 CCR sections 2525 and 2526.

(h) Parole Period and Term Computation Appeals.

(1) Informal level review.

(A) The appellant shall submit the appeal to the records office for research and documenting of the relevant case facts. The appellant shall be provided a copy of the findings.

(B) The document recording denial of an appeal shall be hand-delivered to the appellant, who shall sign and date an Acknowledgement of Receipt, CDC Form 1031 (rev. 8-88).

(2) Formal appeal.

(A) The appellant may then submit to the appeals coordinator an appeal requesting a computation review hearing.

(B) First level review shall be waived. The computation review hearing shall constitute the second level of review.

(C) The case records manager or supervisor shall conduct a computation review hearing within 15 days following receipt of the appeal.

1. The inmate/parolee shall be notified at least 24 hours prior to the hearing via the CDC Form 1032 (Rev. 12/86), Notice of Time, Date and Place of Computation Review Hearing.

2. The hearing shall be held during the inmate's nonassigned hours.

(D) Upon staff determination an error exists which the department lacks authority to change, the appeal shall be granted and the appeal referred to the appropriate agency for disposition.

(E) The appellant shall be provided a copy of the Computation Review Hearing Decision, CDC Form 1033 (rev. 8-88), at the conclusion of the hearing.

(F) The appellant may submit the appeal to third level if dissatisfied with second level response.

(i) Prison Industry Authority Health and Safety Grievances.

(1) An appellant who believes a health or safety hazard exists in a prison industry operation shall submit the written grievance to the prison industry safety committee.

(2) If an industrial safety appeal is denied at the third level, the inmate may file an appeal with the labor commissioner as prescribed by the Division of Industrial Safety.

(3) If the inmate believes any act of reprisal resulted from the grievance, an appeal of the alleged reprisal may be filed through the department's normal appeal process.

(j) Civil Addict or Releasee Appeal.

(1) Civil addicts or releasees may appeal a staff recommendation for exclusion from the civil addict program, unless the recommendation is based on a commitment to prison, deportation or releasee-at-large status.

(2) If an appeal is not received prior to the end of the 15th calendar day from an appellant's receipt of written notice of the recommendation to exclude, all prepared documentation shall be forwarded to the committing court.

(3) The second level review shall be the final review.

(4) Time constraints for releasee appeals are:

(A) The assistant regional parole administrator shall complete the first level review within ten working days.

(B) The regional parole administrator shall complete the second level review within 15 working days.

(k) Disability Grievances. An inmate or parolee with a permanent disability who is requesting a reasonable modification or accommodation who has a discrimination complaint or grievance based on a permanent disability shall follow the procedures described in section 3085. For the purpose of this section, permanent disability shall mean a disability/condition that is expected to last longer than six months.

(*l*) Movie/Video Selection or Exclusion Appeals.

(1) Movies/videos which have been given a rating of other than "G," "PG," or "PG-13" by the Motion Picture Association of America shall not be approved for general inmate viewing, and will not be accepted for appeal.

(2) The informal and first level of appeal shall be waived for appeals related to the selection or exclusion of a "G," "PG," or "PG-13" rated or non-rated movie/video for viewing.

(3) An appellant dissatisfied with the second level review decision may file the appeal at third level.

(m) Joint Venture Program Employer Related Grievances.

(1) Any current or former Joint Venture Program inmate-employee who believes he/she has a grievance regarding a wage and hour or retaliation claim against a Joint Venture Employer shall submit the written grievance to the Joint Venture Program Chief.

(2) The Joint Venture Program Chief shall attempt to resolve all complaints.

(3) Time frames for filing grievances will be governed by the Division of Labor Standards Enforcement's (DLSE) statutes of limitations, including but not limited to Labor Code Section 98.7 and Code of Civil Procedure Sections 337, 338 and 339, for the appropriate type of complaint.

(4) If the inmate is dissatisfied with the Joint Venture Program Chief's decision, the inmate may file a complaint with the Labor Commissioner.

NOTE: Authority cited: Section 5058 and 10006(b), Penal Code. Reference: Sections 832.5, 5054 and 10006(b), Penal Code; Section 19583.5, Government Code; *Wolff* v. *McDonnell* (1974) 418 U.S. 539, 558–560; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Section 35.107, Title 28, Code of Federal Regulations; Section 98.7, Labor Code; and Sections 337, 338 and 339, Code of Civil Procedure.

HISTORY:

1. New section filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89. For prior history, see section 3325(c).
2. Certificate of Compliance as to 5-18-89 order including amendment of subsections (a) and (d) transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).
3. Editorial correction of printing errors in subsections (f)(1)(B) and (g)(2) (Register 92, No. 5).
4. Amendment of subsection (e)(4) and new subsections (h)(3), (i)(2)(c)1. and 2., and (k) filed 5-6-92 as an emergency; operative 5-6-92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5-6-92 order including amendment of subsections (e)(4) and (i)(2)(C)1. transmitted to OAL 8-31-92 and filed 10-7-92 (Register 92, No. 41).
6. New subsection (l) and amendment of Note filed 4-7-95 as an emergency pursuant to Penal Code section 5058; operative 4-7-95 (Register 95, No. 14). A Certificate of Compliance must be transmitted to OAL by 9-14-95 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 4-7-95 order transmitted to OAL 6-26-95 and filed 7-25-95 (Register 95, No. 30).
8. New subsections (m)–(m)(3) and amendment of Note filed 6-28-96 as an emergency; operative 6-28-96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 1-6-97 or emergency language will be repealed by operation of law on the following day.
9. Editorial correction of subsection (m)(3) (Register 96, No. 51).
10. New subsections (m)–(m)(3) and amendment of Note refiled 12-19-96 as an emergency; operative 12-19-96 (Register 96, No. 51). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 5-28-97 or emergency language will be repealed by operation of law on the following day.
11. Repealer of subsection (a)(1)(D), amendment of subsections (a)(2)(A), (b)(2), (d)(4), (d)(4)(A) and (e)(1), repealer of subsections (h) and (h)(1), renumbering of old subsections 3084.7(h)(2) and (h)(3) to new subsections 3391(b) and (c), subsection relettering, and amendment of newly designated subsection (k) filed 12-23-96 as an emergency; operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 12-19-96 order, incorporating relettering from 12-23-96 order and further amending section and Note, transmitted to OAL 4-14-97 and filed 5-23-97 (Register 97, No. 21).
13. Repealer of subsection (a)(1)(D), amendment of subsections (a)(2)(A), (b)(2), (d)(4), (d)(4)(A) and (e)(1), repealer of subsections (h) and (h)(1), renumbering of old subsections 3084.7(h)(2) and (h)(3) to new subsections 3391(b) and (c), subsection relettering, and amendment of newly designated subsection (k) refiled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
14. Editorial correction of subsection (j)(1) and History 13 (Register 97, No. 24).
15. Certificate of Compliance as to 5-29-97 order, including amendment of subsections (b)(2) and (k), transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).
16. New subsections (m)–(m)(4) and amendment of Note filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).

3085. Americans With Disabilities Act.

No qualified inmate or parolee with a disability, as defined in Title 42, U.S.C. section 12102 shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the department, or be subjected to discrimination.

(a) CDC Form 1824 (1/95), Reasonable Modification Or Accommodation Request. If otherwise qualified or eligible, inmates or parolees with disabilities as defined in Title 42, U.S.C. section 12102 may request reasonable modification or accommodation to

achieve access to a program, service, or activity offered by the facility, or may grieve an issue of alleged discrimination based on disability, by completing a CDC Form 1824. The inmate or parolee shall complete the front side of the form and forward it to the appeals coordinator's office. The form shall be screened in accordance with section 3084.3 screening criteria and, if it meets the initial screening criteria, is logged in the CDC Form 645 (7/77), Inmate/Parolee Appeals Log, with the status of a first level of review.

(b) If dissatisfied with the decision rendered on the CDC Form 1824, the appellant may, within 15 days of receipt of the decision, appeal to the second level of review by attaching the original request form, CDC 1824, to a CDC Form 602 (rev. 12-87), Inmate/Parolee Appeal Form, and completing section ''F'' of the CDC Form 602.

(c) Other provisions pertaining to inmate or parolee appeals not addressed in this section shall apply.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; and Sections 35.107 and 35.130, Title 28, Code of Federal Regulations.

HISTORY:

1. New section and forms filed 4-7-95 as an emergency pursuant to Penal Code section 5058; operative 4-7-95 (Register 95, No. 14). A Certificate of Compliance must be transmitted to OAL by 9-14-95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4-7-95 order transmitted to OAL 6-26-95 and filed 7-25-95 (Register 95, No. 30).

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST
CDC 1824 (1/95)

INSTITUTION/PAROLE REGION:	LOG NUMBER:	CATEGORY: 18. ADA

NOTE: **THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES**

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME(PRINT)	CDC NUMBER	ASSIGNMENT	HOURS/WATCH	HOUSING

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disibility shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

DESCRIBE THE PROBLEM:

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

INMATE/PAROLEE'S SIGNATURE

DATE SIGNED

SAMPLE

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST
CDC 1824 (1/95)

REVIEWER'S ACTION

DATE ASSIGNED TO REVIEWER:
DATE DUE:

TYPE OF ADA ISSUE

☐ PROGRAM, SERVICE, OR ACTIVITY ACCESS (Not requiring structural modification)

- ☐ Auxiliary Aid or Device Requested
- ☐ Other_____

☐ PHYSICAL ACCESS (requiring structural modification)

DISCUSSION OF FINDINGS:_____

DATE INMATE/PAROLEE WAS INTERVIEWED

PERSON WHO CONDUCTED INTERVIEW

DISPOSITION

☐ GRANTED ☐ DENIED ☐ PARTIALLY GRANTED

BASIS OF DECISION:_____

NOTE: *If disposition is based upon information provided by other staff or other resources, specify the resource and the information provided. If the request is granted, specify the process by which the modification or accommodation will be provided, with time frames if appropriate.*

DISPOSITION RENDERED BY (NAME)	TITLE	INSTITUTION/FACILITY

APPROVAL

ASSOCIATE WARDEN'S SIGNATURE	DATE SIGNED

DATE RETURNED TO INMATE/PAROLEE

SAMPLE

SUBCHAPTER 2. INMATE RESOURCES

Article 1. Canteens

3090. Inmate Canteen Establishment and Draw Limits.

(a) Each facility shall establish an inmate canteen pursuant to penal code section 5005 enabling inmate purchases of approved merchandise. Facility staff shall consult with representatives of the inmate population when determining items to be stocked in the canteen for resale to the inmates.

(b) The maximum monthly canteen draw authorized by the director is $180.00. An inmate's regular canteen purchases shall not exceed the limits specified in section 3044 or posted on the inmate's IWF Form 21, Cash Register Card (Rev. 4/92), whichever is less.

(c) Inmates shall be permitted to deduct from their trust account for canteen purchases by completing a CDC Form 184, Canteen Draw Order (Rev. 9/88), and submitting it to the trust office. Each approval shall be posted to the inmate's IWF Form 21 within eight days.

(d) An inmate's trust account deductions for canteen purchases shall not be restricted beyond limits established by the director for all inmates in like work/training incentive groups, except by formal disciplinary action for a violation involving canteen or the intentional or negligent destruction, damage, or misuse of state property.

(e) Trust account statements showing current balances shall be issued to those inmates submitting written requests, provided 90 days have elapsed since their previous request.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5005 and 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. Amendment filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
4. Amendment of subsections (a) and (c) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
5. Amendment of section heading, text and Note filed 10-14-93; operative 11-15-93 (Register 93, No. 42).
6. Amendment of subsection (b) filed 3-8-2001; operative 4-7-2001 (Register 2001, No. 10).

3091. Inmate Canteen Operation.

(a) A current list of approved available merchandise, the price of each item, and the canteen operating hours shall be conspicuously posted at each canteen. Copies shall be made available to inmates denied direct access to the canteen.

(b) Canteen draw schedules shall:

(1) Be published at least once every six months.

(2) Indicate the deadlines for submission of CDC Form 184, Canteen Draw Order (Rev. 9/88).

(3) Be posted in each housing unit at each facility and camp.

(4) Include no less than three canteen draw dates each month based on the last two digits of the inmate's department identification number. Each inmate shall be entitled to no less than one draw each month.

(c) Inmates who do not present their privilege card when purchasing IWF Forms 22, Canteen Yard Cards (Rev. 8/90), or merchandise shall be limited to one-fourth the maximum monthly draw.

(d) When purchasing merchandise, inmates shall be required to:

(1) Complete an itemized order list prior to purchasing canteen items.

(2) Place a clear thumbprint or three fingerprints on the CDC Form 184 or IWF Form 21, Cash Register Card (Rev. 4/92).

(3) Sign a CDC Form 184 for the amount approved by the trust office.

(4) At the time of each purchase, sign the IWF Form 21 to verify the amount purchased.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5005, 5006 and 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment of section heading, text and Note filed 10-14-93; operative 11-15-93 (Register 93, No. 42).

3092. Special Inmate Canteen Purchases.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5006 and 5054, Penal Code.

HISTORY:

1. Amendment of section heading and text and new Note filed 10-14-93; operative 11-15-93 (Register 93, No. 42).
2. Amendment relocating former section 3092 to section 3190(e)–(f) filed 12-30-2003 as an emergency; operative 1-1-2004 (Register 2004, No. 1). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 6-9-2004 or emergency language will be repealed by operation of law on the following day.
3. Withdrawal and repeal of 12-30-2003 amendment filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 9-24-2004 or emergency language will be repealed by operation of law on the following day.
4. Amendment relocating former section 3092 to section 3190(h) and (p) filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3093. Canteen Yard and Cash Register Cards.

(a) Facilities may issue IWF Form 22, Canteen Yard Cards (Rev. 8/90), for inmate use in making canteen purchases. Inmates shall not alter such card, nor possess or control another inmate's card or other approved means of canteen purchase.

(b) The IWF Form 21, Cash Register Card (Rev. 4/92), of a transferring inmate shall be cancelled by the trust office and the unused amount credited to the inmate's account. A transferring inmate's IWF Form 22 shall be also returned to the canteen cancelled and its value credited to the inmate's trust account.

(c) Annually on May 31, IWF Form 22 of a color different from that currently used shall be issued and the previous color no longer honored. The facility shall post, in conspicuous locations available to every inmate, a written notice of the IWF Form 22 exchange. Inmates may, before June 30, exchange their old IWF Form 22 for new or for credit to their IWF Form 21 or trust account. Exception: IWF Form 22 of the previous color may be exchanged after June 30 for inmates who were out-to-court or in the hospital during the exchange period.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5005, 5006 and 5054, Penal Code.

HISTORY:

1. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Amendment of section heading, text and Note filed 10-14-93; operative 11-15-93 (Register 93, No. 42).

3094. Exceeding Inmate Canteen Limits.

Inmates shall not possess canteen items and IWF Form 22, Canteen Yard Card (Rev. 8/90), with a combined value exceeding the monthly canteen limits established in section 3044. Excess canteen items and IWF Form 22 shall be confiscated and stored in a secure area pending a disciplinary hearing and resolution of any appeal of the matter.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5005, 5006 and 5054, Penal Code.

HISTORY:

1. Amendment of section heading and text and new Note filed 10-14-93; operative 11-15-93 (Register 93, No. 42).

3095. Nonroutine Canteen Draws.

(a) A newly arrived inmate may within 30 days of arrival submit CDC Form 184, Canteen Draw Order (Rev. 9/88), for any scheduled draw. Such exceptions shall not be made for the inmate's subsequent draws.

(b) Conservation camp inmates shall submit their CDC Form 184 to the camp lieutenant or designee.

(c) Segregated inmates shall not be permitted to go to the canteen and shall submit their CDC Form 184 to the segregation unit staff.

(d) Infirmary patients shall submit their requests for canteen purchases to the infirmary unit staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5005 and 5054, Penal Code.

HISTORY:

1. Repealer and new section filed 10-14-93; operative 11-15-93 (Register 93, No. 42).

Article 1.5. Inmate Wages and Deductions

3097. Inmate Restitution Fine and Direct Order Collections.

(a) When an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 30 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits, regardless of the source of such income, subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 33 percent. A maximum deduction of 33 percent shall remain in effect through December 31, 2004 at which time subsection (b) shall take effect.

(b) Effective January 1, 2005, when an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 40 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 44 percent. A maximum deduction of 44 percent shall remain in effect through December 31, 2006 at which time subsection (c) shall take effect.

(c) Effective January 1, 2007 and thereafter, when an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent.

(d) When an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 30 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits, regardless of the source of such income, subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 33 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Governing Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine. A maximum deduction of 33 percent shall remain in effect through December 31, 2004 at which time subsection (e) shall take effect.

(e) Effective January 1, 2005, when an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 40 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 44 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Government Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine. A maximum deduction of 44 percent shall remain in effect through December 31, 2006 at which time subsection (f) shall take effect.

(f) Effective January 1, 2007 and thereafter, when an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Government Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine.

(g) When an inmate owes both a restitution fine and a direct order of restitution from a sentencing court, the department shall collect on the direct order(s) of restitution first. Upon satisfaction of the direct order(s) of restitution, collection of any unsatisfied restitution fine(s) shall commence until paid in full.

(h) Fines and direct orders of restitution shall be collected from inmates/parolees who owe restitution while the inmate/parole violator remains under the jurisdiction of the department, with certain exceptions, set out in subsection (j).

(i) Fines and direct orders of restitution may be collected from inmates and parole violators housed in a Reception Center, Community Correctional Center, Community Correctional Facility, Community Correctional Reentry Center, Restitution Community Correctional Center or Return to Custody Substance Abuse Treatment Facility. Fines and direct orders of restitution may also be collected from inmates in the Community Prisoner Mother and Family Foundations Programs.

(j) Joint Venture Program deposits, funds designated to pay the costs of a family visit (''family visit funds''), Temporary Community Leave funds, federal disability payments, veteran benefits, any reimbursement to an inmate as a result of a claim for lost or damaged property, or money reimbursed to an inmate due to a failed attempt to purchase merchandise are exempt from deductions for fines and direct orders of restitution enumerated in subsections (a), (b), (c), (d), (e), and (f).

(k) Family visit funds and Temporary Community Leave funds shall be so designated by the sender on Form 1839 (Rev. 5/97), Exemption of Family Visit/Temporary Community Leave Funds From Restitution Fines/Orders, to be completed in its entirety and returned to staff with the appropriate funds. Any funds received for either of these two purposes that are not accompanied by the prescribed form, properly completed, shall be deposited in the inmate's trust account and shall be subject to a deduction for restitution pursuant to subsections (a), (b), (c), (d), (e), and (f).

(*l*) Existing funds from the inmate's trust account can be used to pay for a family visit or a Temporary Community Leave. Upon the inmate's request, a hold will be placed on a specified portion of these funds to pay for the upcoming family visit or Temporary Community Leave. The inmate shall not use these designated funds for any other purpose other than the planned family visit or Temporary Community Leave. Should the family visit or Temporary Community Leave not take place then the hold previously placed on the funds shall be removed and no restitution deduction shall be made.

(m) If the family visit does not occur, then the funds designated for the family visit on Form 1839 (Rev. 5/97), shall have a permanent hold placed on them in the inmate's trust account for a future family visit or until the inmate is released on parole. Should the inmate transfer to another institution, the hold shall be removed, the funds deposited into the inmate's trust account, and no restitution deduction shall be made.

(n) If the Temporary Community Leave does not occur, then the funds designated for the leave on Form 1839 (Rev. 5/97), shall be refunded to the sender.

(o) Any remaining balance on the Temporary Community Leave fund for a Temporary Community Leave that took place shall be refunded to the sender.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2085.5 and 5054, Penal Code.

HISTORY:

1. New section filed 9-16-92 as an emergency; operative 9-16-92 (Register 92, No. 38). A Certificate of Compliance must be transmitted to OAL 1-14-93 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-16-92 order transmitted to OAL 12-24-92 and filed 2-8-93 (Register 93, No. 7).
3. Amendment of section filed 10-17-95 as an emergency pursuant to Penal Code section 5058(e); operative 10-17-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 3-25-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance, including amendment of section, as to 10-17-95 order transmitted to OAL 3-15-96 and filed 4-24-96 (Register 96, No. 17).
5. Editorial correction of subsection (a) (relettered to subsection (b)) (Register 98, No. 9).
6. Amendment of section heading, new subsections (a), (c), and (e), subsection relettering, and amendment of newly designated subsections (b), (d), and (f)–(j) filed 2-26-98 as an emergency pursuant to Penal Code section 5058(e); operative 2-26-98 (Register 98, No. 9). A Certificate of Compliance must be transmitted to OAL by 8-5-98 or emergency language will be repealed by operation of law on the following day.
7. Amendment of section heading, new subsections (a), (c) and (e), subsection relettering, and amendment of newly designated subsections (b), (d) and (f)–(j) refiled 8-11-98 as an emergency pursuant to Penal Code section 5058(e); operative 8-11-98 (Register 98, No. 33). A Certificate of Compliance must be transmitted to OAL by 1-19-99 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-11-98 order, including further amendment of subsections (a) and (b), transmitted to OAL 9-25-98 and filed 11-4-98 (Register 98, No. 45).
9. Amendment of section and Note filed 5-27-2003; operative 7-1-2003 (Register 2003, No. 22).
10. Amendment of section and Note filed 6-18-2004 as an emergency; operative 6-18-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-29-2004 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 6-18-2004 order transmitted to OAL 11-16-2004 and filed 12-30-2004 (Register 2004, No. 53).

Article 2. Handicraft

3100. Handicraft Program Participation.

(a) Each institution or their designee may establish a handicraft program based on, but not limited to, the following conditions:

(1) possible threat to facility security,

(2) space availability,

(3) sufficient staffing, and

(4) available funding.

(b) Only those inmates in Privilege Groups A and B are eligible to apply for participation in the handicraft program and must submit CDC Form 165 (Rev. 7/95), Application for Handicraft Privilege.

(c) Approval may be granted to those inmates whom, in the judgement of the institution head or their designee, intend serious participation and have the skills or the potential and an interest to develop the skills required for the craft.

(d) The reason(s) for denying an inmate handicraft privileges shall be documented on Form 165 (Rev. 7/95), Application for Handicraft Privilege, and returned to the inmate with their application.

(e) An inmate's right to own, sell or convey personal property, including all written and artistic material produced or created by that inmate shall be governed by Section 2601 of the Penal Code.

(f) Handicraft projects or tools necessary for completion of handicraft projects shall be restricted to the extent necessary to provide for the reasonable security of the facility and the protection of persons and shall be subject to review by the institution head or their designee.

(g) Only those items approved by the institution head or their designee shall be manufactured. A project shall not be approved under any one or more of the following circumstances:

(1) The size of the materials would exceed the limits established pursuant to section 3101.

(2) The proposed quantities of the finished item for sale would exceed probable demands.

(3) The inmate's loan request for the cost of materials exceeds the limit established by the institution head or their designee.

(h) Handicraft projects, tools, and materials within a designated handicraft area, shall be controlled by staff and may be stored in a designated secured storage area of the facility, dependant upon space availability at the institution/facility.

(i) Inmates shall not work on a project or participate in any other handicraft activity during their scheduled work/training assignment hours.

(j) Supplies and materials for a project shall not be ordered until the project is approved by the institution head or their designee.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2600, 2601, 5006 and 5054, Penal Code.

HISTORY:

1. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Amendment of section heading, section and Note filed 3-20-96; operative 4-19-96 (Register 96, No. 12).

3. Amendment of subsection (h) filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3101. Volume.

Inmates assigned to handicraft programs may possess handicraft articles and materials in their quarters/living area. Any authorized handicraft items in excess of six cubic feet of space shall be confiscated and disposed of in accordance with Section 3191(c).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code.

HISTORY:

1. Amendment of section and new Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3102. Suspension or Termination.

(a) Violation of institution handicraft procedures may result in the inmate being denied participation in the program. Such denial through disciplinary action will be for a specific period of time in keeping with the seriousness of the violation. Participation in handicraft programs or in specific handicraft projects may be terminated or suspended as a result of classification committee action which changes the inmate's custodial classification, housing, or other circumstances which preclude handicraft or specific kinds of handicraft activity.

(b) Upon suspension or termination of handicraft through disciplinary action, classification committee action, or upon the inmate's voluntary termination of handicraft activity, all personally owned handicraft tools and materials will be placed in institution storage, or at the inmate's option and own expense, shipped to any person designated by the inmate. If placed in institution storage, tools and materials will be returned to the inmate no later than the time of release from the institution.

Comment: Former DP-2203, suspension of privilege.

3103. Gifts.

Inmates may give gifts of handicraft items produced by themselves to any correspondent or visitor, subject to institution procedures for doing so. No limitation will be placed upon the number of gifts or estimated value of gifts that may be given in total or to any one person, except that no gift may be given to or be accepted by an employee of the Department of Corrections.

Comment: Former DP-2204, handicraft gifts.

3104. Inmate Handicraft Sales.

(a) Handicraft items may be sold to the public only at the facility and as otherwise may be specifically authorized by the institution head.

(b) The sale price of handicraft items shall be set by the inmate. An additional 10 percent mark up shall be added to the price of all articles placed for sale.

(1) One percent of the mark up shall be given to the inmate for the purpose of refunding duplicate sales tax paid on raw materials used in the handicraft articles sold.

(2) Nine percent of the mark up shall be deposited into the Inmate Welfare Fund for the purpose of offsetting administrative costs.

(c) Inmate handicraft items shall not be sold or given to other persons for the purpose of resale, except as provided in subsection (a).

Comment: Former DP-2205, dealing with handicraft.

Former DP-2206, sales of handicraft.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 2812, and 2813, Penal Code.

HISTORY:

1. Editorial correction of printing error in subsection (b) (Register 92, No. 5).
2. Amendment of section heading and subsection (a), new subsection (b), subsection relettering, and amendment of newly designated subsection (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 7-25-95 by operation of Government Code section 11346.1(f) (Register 95, No. 30).
4. Amendment of section heading and subsection (a), new subsection (b), subsection relettering and amendment of newly designated subsection (c) filed 7-25-95 as an emergency; operative 7-25-95 (Register 95, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-25-95 order transmitted to OAL 11-17-95 and filed 1-3-96 (Register 96, No. 1).
6. Amendment of subsection(b), new subsections (b)(1)–(2) and amendment of Note filed 5-6-2002; operative 6-5-2002 (Register 2002, No. 19).

3105. Handicraft Program Assistance to Indigent Inmates.

The institution head or their designee may authorize loans from the inmate welfare fund (IWF) to help indigent inmates purchase materials for their initial or continued participation in the handicraft program. The institution head or their designee shall establish a limit on the dollar amount of IWF loans. A hold for the amount of the loan shall be placed on the trust account of such an inmate until the loan is fully repaid.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2079, 2813, 5006, and 5054, Penal Code.

HISTORY:

1. Amendment of section heading, section and new Note filed 3-20-96; operative 4-19-96 (Register 96, No. 12).

3106. Materials.

Inmates must use only materials purchased from their own funds or approved for their use by the institution's designated supervisor of the handicraft program in the manufacture of handicraft articles.

Comment: Former DR-2201, source of handicraft materials.

3107. Donating Items to the Institution.

Inmates may donate handicraft items, articles, tools, and materials to the institution for use by other inmates who are properly enrolled in approved handicraft programs. Such donations shall be recorded by the institution's supervisor of handicraft programs.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code.

HISTORY:

1. Amendment of section heading and section and new Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3108. Subcontracting.

(a) Inmates may not employ another inmate or inmates in the manufacture of any handicraft article.

(b) Inmates may collaborate in the manufacture of handicraft articles only with the prior and specific approval of the institution's designated supervisor of the handicraft program. All inmates involved in such joint productions or creations shall be given recognition if the article is disposed of as a gift by or through the

institution. If sold, all inmates involved in its production or creation are to share in any profit as determined by the institution's supervisor of the handicraft program.

Comment: Former DR-2203, subcontracting handicraft production.

HISTORY:
1. Amendment of subsection (b) filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).

3109. Business Dealings.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 2812, Penal Code.

HISTORY:
1. Repealer and new section filed 10-7-82, effective thirtieth day thereafter (Register 82, No. 41).
2. Editorial correction filed 2-19-85 (Register 85, No. 8).
3. Repealer filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency repeal filed 7-25-95 by operation of Government Code section 11346.1(f) (Register 95, No. 30).
5. Repealer filed 7-25-95 as an emergency; operative 7-25-95 (Register 95, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 7-25-95 order transmitted to OAL 11-17-95 and filed 1-3-96 (Register 96, No. 1).

Article 3. Library

3120. Inmate Library Requirements.

(a) Each warden shall ensure a library, law library and related services are maintained for the benefit of all inmates in their facility, including those inmates confined to segregated housing units. A library access schedule shall be approved by the warden and posted throughout the facility.

(b) Material that contains any of the characteristics listed in sections 3006(a) and (c) shall be prohibited from inmate libraries unless specifically authorized by the institution head.

(c) To check out material from a library, each inmate shall:

(1) Present photo identification (state identification or privilege card) as required.

(2) Sign a trust account withdrawal order.

(3) Display the materials to staff when leaving the library.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 2600 and 2601, Penal Code; *Toussaint* v. *McCarthy,* 801 F.2d 1080 (9th Cir. 1986); and *Bounds* v. *Smith,* 97 S.Ct. 1491 (1977), 430 U.S. 817.

HISTORY:
1. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Amendment filed 6-30-93; operative 7-30-93 (Register 93, No. 27).
3. Certificate of Compliance as to 12-27-95 order including amendment of subsection (b) and Note transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).

3121. Library Restrictions and Penalties.

(a) No books or other reference material shall be removed from an inmate library without the librarian's authorization.

(b) Books or other library material checked out to an inmate shall not be loaned to or borrowed by another inmate, and shall be returned to the library as required.

(c) Inmates whose checked out library material is lost, damaged, or stolen shall be subject to disciplinary actions and may also be charged for the costs of repair or replacement of the material and may be denied or have restrictions placed upon their library privileges.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendments filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Editorial correction of printing error in Note (Register 92, No. 5).
3. Renumbering and amendment of former section 3122 to section 3121 and renumbering and amendment of former section 3121 to section 3122 filed 6-30-93; operative 7-30-93 (Register 93, No. 27).

3122. Inmate Law Library.

(a) Each facility shall provide legal materials through its law library to provide inmates with meaningful access to the courts. Inmates with established court deadlines shall be given higher priority to access law library resources than those with longer deadlines or without a deadline.

(b) An inmate in a facility without a law library and requesting access to such resources shall be transferred to a facility with a law library of departmental choosing for the period of time needed to complete legal work.

NOTE: Authority cited: Section 5058, Penal Code. Reference: section 5054, Penal Code; *Gilmore* v. *Lynch,* 319 F.Supp. 105 (1970); *Toussaint* v. *McCarthy,* 801 F.2d 1080 (9th Cir. 1986); *Toussaint* v. *McCarthy,* USDC N.D. Cal. No. C 73-1422 SAW, First Special Report of the Monitor, August 19, 1987; and *Toussaint* v. *Rowland,* USDC N.D. Cal. No. C 73-1422 SAW, Second Special Report of the Monitor, June 30, 1988.

HISTORY:
1. Amendment filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Renumbering and amendment of former section 3121 to section 3122 and renumbering and amendment of former section 3122 to section 3121 filed 6-30-93; operative 7-30-93 (Register 93, No. 27).

Article 4. Mail

3130. General Policy.

The California Department of Corrections and Rehabilitation (CDCR) encourages correspondence between inmates and persons outside the correctional facility. The sending and receiving of mail by inmates shall be uninhibited except as specifically provided for in this article. The Regulations contained in this article shall provide for the orderly processing of inmate mail and to give direction to staff, inmates, and their correspondents concerning facility mail requirements. Mail shall be delivered to inmates, regardless of housing, unless it is contraband pursuant to section 3006, or is disturbing or Offensive Correspondence pursuant to section 3135.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601(d) and 5054, Penal Code; and *Procunier* v. *Martinez,* 416 U.S. 396.

HISTORY:
1. Repealer of Article 4 (Sections 3130–3143) and new Article 4 (Sections 3130–3147) filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41). For prior history, see Registers 78, No. 33; 78, No. 12; 77, No. 40; 77, No. 20; 77, No. 9 and 76, No. 31.
2. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3131. Plan of Operation.

Each warden or head of a correctional facility shall prepare and maintain a plan of operation for the sending and receiving of mail for all inmates housed in the facility. Procedures of the correctional facility shall conform to the policies, regulations and the provisions of law made reference to and shall apply to all inmates of the facility. Correctional staff shall promptly inform each newly received inmate of all department regulations and local procedures governing inmate mail.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2080, Penal Code; and *Procunier* v. *Martinez*, 416 U.S. 396.

HISTORY:

1. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3132. Responsibility and Compliance.

(a) Correspondents are personally responsible for the content of each item of mail they send into or out of a correctional facility. All persons corresponding with inmates must comply with existing laws, regulations and local rules. Any violation of laws governing mail will be referred to postal authorities and to appropriate criminal authorities. Violations of law, the policies and regulations set forth in this article, or of approved facility mail procedures may result in the temporary suspension or denial of correspondence between the persons involved.

(b) Departmental employees, inmates and persons corresponding with inmates must comply with the regulations set forth in this article and with approved facility mail procedures. Failure to do so may result in legal or administrative measures against the person or persons involved.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 2930, 5054 and 5058, Penal Code; and *Procunier* v. *Martinez*, 416 U.S. 396.

HISTORY:

1. Amendment of subsection (a) filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3133. Definitions and Disposition of Mail.

(a) Definitions:

(1) First-Class Mail is all mail wholly or partly in writing or typewriting, all actual and personal correspondence, all bills and statements of account, and all matter sealed or otherwise closed against inspection. The maximum weight for a First-Class letter is 13 ounces. All First-Class Mail shall be delivered to the inmate as soon as possible, but not later than seven calendar days from receipt of the mail at the facility mailroom.

(2) Standard Mail, formerly called Bulk Mail, is used for advertising mail, catalogues, and newsletters of a non-personal nature that are not required to be mailed as First-Class Mail. The maximum weight for Standard Mail is 16 ounces.

(3) Periodicals are a class of mail consisting of magazines, newspapers or other publications formed of printed sheets that are published at least four times a year at regular, specified intervals from a known office of publication. The known office of publication must be a public office for transacting the business of the publication during normal business hours, and must also be the office where the publication's circulation records are available for USPS examination.

(4) Package Services are Parcel Post, bound Printed Matter, Media Mail, and Library Mail. With the exception of parole clothes and third party special purchase health appliances, inmates shall not be allowed to receive package services directly from personal correspondents. Packages containing parole clothes or third party special purchase health care appliances must be clearly marked with either ''Parole Clothes'' or ''Health Care Appliance'' on the outside of the package. Personal correspondents do not include the Courts, Law Firms, County, State and Federal Agencies, Publishers, Bookstores, Book Distributors, Religious Organizations that provide written materials only, etc.

(5) For purposes of this article, the definition of indigent inmate is an inmate who has $1.00 or less in their Inmate Trust Account for 30 consecutive days.

(b) All incoming and outgoing mail shall be handled in accordance with the following:

(1) All incoming mail shall be properly addressed. Appropriately addressed mail shall include the inmate's name and department identification number. The mail should also include the address designated by the institution for inmate mail. The receiving institution is required to update any mail piece that does not reflect accurate housing or institutional location. Standard Mail must be addressed to an individual inmate, showing their name, CDCR number and the address for the applicable institution.

(2) All outgoing mail shall be properly addressed, and shall be marked indicating that it originated from a California State Correctional Facility. If addressed to an inmate, it must contain the sender's name, department identification number and the return address designated by the institution for inmate mail, including housing. It shall also contain the recipient's name, address, city, state, and zip code.

(3) All incoming packages and non-confidential mail addressed to an inmate will be opened and inspected before delivery to the inmate. The purpose of inspection will be to receive or receipt any funds enclosed for deposit to the inmate's trust account, to verify and record the receipt of permitted personal property, and to prevent the introduction of contraband. All non-confidential inmate mail, incoming or outgoing, is subject to being read in its entirety by designated staff. All non-confidential inmate mail that is ''returned to sender'' shall be opened and inspected before being returned to the inmate.

(4) Facilities shall not require incoming books, magazines or newspapers to have an institution pre-approved ''vendor approved'' label affixed to the packaging. A departmentally approved vendor is any publisher, book store, or book distributor, that does mail order business. Books, periodicals or other publications that are mailed from a religious organization shall be considered as coming from an authorized vendor.

(c) Confidential Mail with Inmate Trust Account Withdrawals. Inmate confidential mail submitted with a CDC Form 193, Inmate Trust Withdrawal (Rev. 1/88), to pay for filing fees or other costs may be left unsealed so that the voucher (check) can be enclosed after the trust account withdrawal has been processed. Inmates who do not wish to forward this type of mail unsealed should attach a stamped, appropriately addressed envelope to the confidential mail so the check can be enclosed and forwarded in the extra envelope.

(d) Undelivered Mail. All undelivered letters and packages returned to a facility by the post office shall be opened and inspected before being returned to the inmate. This inspection is to determine if the content originated with the inmate sender identified on the letter or package, and to prevent the transmission of contraband, material, substances, and property that an inmate is not authorized to possess in the correctional facility. The inspection of returned mail includes regular mail and letters that were mailed as confidential correspondence. In the case of returned confidential correspondence, the envelope shall be opened in the presence of the inmate. It shall be examined and read to the degree necessary to determine if it was sent by the inmate and opened or tampered with before its return to the facility. Upon completion of this examination, the returned correspondence shall be given to the inmate. Any contraband found in the returned correspondence shall be confiscated and processed, and appropriate disciplinary action taken.

(e) Unmailed Correspondence. If any First-Class Mail is not accepted for mailing, or is accepted for mailing but is not properly mailed, the inmate shall be notified in writing of the reason for refusal to accept or to promptly mail the item(s). When the delay in mailing exceeds 5 business days, the notice shall be sent and include the disposition of such mail. Unless retention of such mail is required in administrative, legal, or disciplinary proceedings against the inmate or other persons, it shall be promptly mailed or returned to the inmate.

(f) Forwarding Mail. Mail received for an inmate who has been transferred from the facility where the mail is received shall be

immediately forwarded to the facility or agency that has current custody of the inmate. Mail addressed to an inmate who has been transferred or released shall not be returned to the sender as ''Addressee Unknown'' unless the individual has been discharged from CDCR. First-Class Mail and Periodicals addressed to an inmate who has been transferred within the CDCR shall have a label affixed with the current address and shall be forwarded via the USPS. For inmates who have paroled, the affixed label shall state ''Paroled Region #____'', and shall show that Parole Regions' address. Standard Mail with a ''Mailer Endorsement'' that was appropriately addressed, but is undeliverable because the inmate is no longer housed at the facility, shall be returned to the USPS for processing. Mailroom staff shall affix a label to the Standard Mail piece showing the correct address before returning it to the USPS for processing. For inmates who have paroled, the label affixed to the Standard Mail piece shall state ''Paroled Region #____'' and shall show that Parole Regions' address. The Mailer Endorsement will appear either near the address block or below the return address in the top left corner of the mail piece. A Mailer Endorsement may read ''Address Service Requested'', or ''Forwarding Service Requested'', or ''Change Service Requested'', or ''Return Service Requested''. Staff may dispose of any Standard Mail piece that does not have a Mailer Endorsement, and is undeliverable because the inmate is not currently housed at the institution. Daily newspapers that are delivered by courier will not be forwarded nor will they be held for an inmate who is temporarily away from the facility for longer than 72 hours. Exceptions will be made when the absence results from the inmate's participation in facility approved activities such as a community release program, firefighting or other disaster control assignments. Newspapers that are delivered by the USPS will have a forwarding address affixed and shall be returned to the USPS for processing.

(g) Forwarding Confidential Correspondence. All confidential correspondence for inmates that must be forwarded will be done on a daily basis. If delivery of confidential correspondence from the courts is impeded because the addressee's name and CDCR number do not conform to each other, the mailroom will contact the Litigation Coordinator who will telephone the court to clarify the identification of the addressee in order to expedite delivery of confidential correspondence. Staff will document their efforts to identify the addressee when confidential correspondence from the courts cannot be delivered.

(h) Temporary Absence. Mail shall be held for an inmate who is temporarily away from the facility when the inmate's return is anticipated within one week.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procunier* v. *Martinez*, 416 U.S. 396; and *Bell* v. *Wolffish*, 99 S. Ct 1861.

HISTORY:

1. Repealer of former section 3133 and renumbering of former section 3147 to new section 3133, including amendment of section heading and repealer and new section, filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3134. General Mail Regulations.

(a) First-Class Mail can have the following items enclosed, including but not limited to:

(1) Photographs, with the exception of photographs with attached backing, framed photographs that cannot be searched, Polaroid's, negatives, and slides.

(2) Calendars.

(3) Blank greeting cards (No 3-dimensional attachments or stamps).

(4) Postage embossed envelopes, up to forty.

(5) Blank envelopes.

(6) Writing paper/tablets (white or yellow lined only—no cotton paper).

(7) Typing paper (no cotton paper).

(8) Legal paper, to include colored paper required by court rules (no cotton paper).

(9) Children's drawings.

(10) Newspaper clippings, Internet downloaded articles, photocopies of clippings/articles, or electronic mail (e-mail). Prior to issuance they shall be reviewed to ensure that they comply with sections 3006 and 3135.

(11) Forty postage stamps. If there is a rate change, then forty stamps at the old rate, and 40 stamps at the amount needed to equal the new rate. No personalized postage stamps will be allowed. The weight limit for First-Class Mail is 13 ounces, and for Standard Mail is 16 ounces. Photo albums can be obtained by the inmate from the canteen and the Vendor Package Program. Any unacceptable mail shall be immediately returned to the sender with the envelope annotated ''Unauthorized Mail, Return to Sender''. Inmates shall be noticed pursuant to section 3136.

(b) Metered Envelopes. Metered reply envelopes sent in with correspondence must adhere to the following conditions:

(1) The postage amount must be enough to prepay the postage in full.

(2) Indicia may be printed directly on the mail piece or on a label and must be positioned appropriately.

(3) Indicia used to prepay reply postage must not show the date.

(4) The words ''NO POSTAGE STAMP NECESSARY POSTAGE HAS BEEN PREPAID BY'' must be printed above the address.

(c) Inspection of Incoming and Outgoing Packages will occur as follows:

(1) Facilities will establish and make available to all inmates procedures for shipping packages to their correspondents.

(2) Facilities will make available to all inmates local procedures for the receipt of packages from their correspondents in accordance with limits set for their assigned inmate work/training incentive group. A facility may refuse to deliver the package if the inmate is not qualified to receive it. If the package is in excess of the 30-pound limit, or is damaged, the package shall be returned to the vendor at the vendor's expense.

(3) All incoming packages addressed to an inmate shall be opened and inspected in the presence of the inmate. The contents of the package are inspected to record authorized personal property, and to prevent the introduction of contraband.

(4) Delivery by staff of packages, special purchases, and all publications, shall be completed as soon as possible but not later than 15 calendar days, except during holiday seasons such as Christmas, Easter, and Thanksgiving, and during lockdowns of affected inmates.

(5) All packages shall be processed and issued from a designated distribution area. All outgoing packages shall be inspected for contraband prior to being sealed and mailed.

(d) Contests. Inmates shall not participate in any contest when a financial obligation is involved or when such participation shall result in expense to the facility beyond the cost of processing mail. If lottery tickets, lottery scratchers, or other contest materials, are discovered in incoming mail, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states: ''Unauthorized item''.

(e) Inmate Manuscripts. Manuscripts include, but are not limited to, written, typed or printed articles of fiction and nonfiction, poems, essays, gags, plays, skits, paintings, sketches, drawings, or musical compositions created by an inmate. Any manuscript remains the property of the inmate who created it. It may be retained in the inmate's possession, unless it violates sections 3006 or 3135. If unauthorized state materials have been used in the creation of a manuscript, the item shall be confiscated pending

disciplinary action and reimbursement by the inmate for the state materials. Incoming and outgoing manuscripts shall be processed as regular mail in accordance with the provisions of this article.

(f) There shall be no limitations placed on the number of persons with whom an inmate may correspond.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procunier* v. *Martinez*, 416 U.S. 396; and *Bell* v. *Wolffish*, 99 S. Ct. 1861.

HISTORY:

1. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).
2. Editorial correction deleting duplicate sentence (Register 91, No. 11).
3. Editorial correction of printing error in Note (Register 92, No. 5).
4. Amendment filed 11-18-96; operative 12-18-96 (Register 96, No. 47).
5. Renumbering of former section 3134 to section 3138 and renumbering of former section 3138 to section 3134, including repealer and new section, filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3134.1. Processing of Publications.

(a) Publications. Inmates may subscribe to, purchase, or have items sent in to them such as newspapers, periodicals, magazines or books. If subscriptions or books are purchased for the inmate by a third party or donated to an inmate, they must be mailed directly from a book store, book distributor, or publisher. Personal correspondents cannot mail books, periodicals, or other publications directly to inmates and state that they are a donation. There shall be no ''Approved Vendor Lists'' for any publications.

(b) Processing and Inspection of Incoming Magazines and Newspapers. All magazines and newspapers shall be inspected prior to issuance to ensure that they comply with sections 3006, 3134, and 3135. Attached free CD's and packaged samples of perfume, lotion, moisturizers, stickers, or any item deemed to be contraband, contained in magazines shall be removed; notification of such to the inmate is not required. No other items shall be removed from a magazine or other publication in order to issue it to an inmate.

(c) Processing and Inspection of Incoming Books. All incoming paperback and hardback books and any enclosures within them shall be inspected prior to issuance to ensure they comply with sections 3006, 3134, and 3135. For hardback books staff shall allow the inmate to determine whether to accept the book with the cover removed or, if that option is declined, decide how the book is to be disposed of per section 3191(c). If the inmate chooses to accept the book, staff shall insure the book does not violate any other departmental regulation, and then shall remove the entire cover in front of the inmate. Should such removal render the book unstable, staff shall take measures to ensure the book remains intact.

(d) Notification to Publisher for Disapproval of Publication. When incoming books, magazines, or publications to an inmate are withheld or disallowed, a letter shall be sent by the institution to the publisher explaining why the item was denied. A book, magazine, or publication denied to an inmate(s) based on a violation of departmental regulation or policy, and that has not previously been included on a centralized list of banned publications pursuant to subsection 3134.1(e), shall only require one notification letter per institution to be sent to the publisher. At a minimum the letter must include the reason why the book, magazine, or publication was denied, the names and CDCR number for all inmates, the applicable CCR section that the publication violates, and a notice to the Publisher of their right to appeal per section 3137(c). The letter must be sent within 15 calendar days of the determination to disallow the book, magazine or publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years. The institution shall also notice the Division of Adult Institutions to request inclusion of the disallowed publication on the centralized list of banned publications. When incoming or outgoing publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications (Rev. 06/98) of the reason, disposition, name of official disallowing the publication, and the name of the official to whom an appeal can be directed.

(e) Centralized List Of Disapproved Publications. The Division of Adult Institutions shall distribute to each institution a centralized list of disapproved publications that are prohibited as contraband. Examples of publications that would be included on the centralized list would include, but not be limited to, publications that contain sexual content or nudity, warfare or weaponry, bomb making instructions, etc. Publications that are enumerated on this centralized list are not allowed in any institution. Local institutions may not add items to the centralized list. When a publication is placed on the centralized list, the Division of Adult Institutions shall send a letter to the publisher explaining why the publication was excluded. At a minimum, the letter must include the reason why the publication is excluded, the applicable CCR section that the publication violates, and a notice to the Publisher of its right to appeal per CCR subsection 3137(c). The letter must be sent within 15 calendar days of the determination to disapprove the publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procunier* v. *Martinez*, 416 U.S. 396; and *Bell* v. *Wolffish*, 99 S. Ct. 1861.

HISTORY:

1. New section filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3135. Disturbing or Offensive Correspondence.

(a) Non-confidential correspondence may be disallowed if the text of such correspondence presents a danger, or a threat of danger, to any person. The authority to disallow such correspondence shall not be delegated below the staff level of Correctional/Facility Captain.

(b) Disagreement with the sender's or receiver's morals, values, attitudes, veracity, or choice of words will not be cause for correctional staff to disallow mail. Correctional staff shall not challenge or confront the sender or receiver with such value judgments.

(c) Certain correspondence, including but not limited to the following, is disallowed, regardless of values or morals, in order to ensure the safety and security of the institution/facility:

(1) Any mail of a character tending to incite murder, arson, a riot, or any form of violence or physical harm to any person, or any ethnic, gender, racial, religious, or other group.

(2) Threatens blackmail or extortion.

(3) Contraband, or sending or receiving contraband.

(4) Concerns plans to escape or assist in an escape.

(5) Concerns plans to disrupt the order, or breach the security, of any institution/facility.

(6) Concerns plans for activities which violate the law, these regulations or local procedures.

(7) Contains coded messages.

(8) Describes the making of any weapon, explosive, poison, or destructive device.

(9) Contains illustrations, explanations, and/or descriptions of how to sabotage or disrupt computers, communications, or electronics.

(10) Contains maps depicting any area within a ten-mile radius of an institution/facility.

(11) Contains gambling or lottery information or paraphernalia.

(12) Contains material obscene in nature.

(13) Contains human or animal hair, substances, or fluids.

(d) Inmates shall not possess or have under their control obscene material and/or mail containing information concerning where, how, or from whom obscene material may be obtained. Obscene material means catalogs, advertisements, brochures, and/or material taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest. It is material which taken as a whole, depicts or describes sexual conduct, and lacks serious literary, artistic, political, or scientific value. Additionally, material is considered obscene when it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it appeals to deviant sexual groups. Material subject to the test of the above includes, but is not limited to:

(1) Portrays sexually explicit materials, which are defined as materials that show frontal nudity including personal photographs, drawings, and magazines and pictorials that show frontal nudity.

(2) Portrays, displays, describes, or represents penetration of the vagina or anus, or contact between the mouth and genitals.

(3) Portrays, displays, describes, or represents bestiality, sadomasochism, or an excretory function, including urination, defecation, or semen.

(4) Portrays, displays, describes, or represents the nudity of a minor, or person who appears to be under 18 years old.

(5) Portrays, displays, describes, or represents conduct that appears to be non-consensual behavior.

(6) Portrays, displays, describes, or represents conduct that appears to be forceful, threatening, or violent.

(7) Portrays, displays, describes, or represents sexual conduct where one of the participants is a minor, or appears to be under 18 years old.

(e) If the receiver of any mail, confidential or nonconfidential, directs a written complaint to administrative staff of the department or to facility officials, consideration will be given to any reasonable remedy sought by the individual. This may include discussion of the complaint with the inmate in an attempt to resolve the matter, reading of all mail, including confidential mail, addressed to the individual, and either disallowing only that which appears to perpetuate the problem, or disallowing all mail to the individual. Complaints and requests for actions which would, if approved, restrict an inmate's correspondence, and any action taken in response to such complaints or requests, will be fully documented on a CDC Form 128B (Rev. 4-74). The inmate shall receive a copy of the documentation and the original shall be placed in the inmate's C-file.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code; and *Procunier* v. *Martinez*, 416 U.S. 396.

HISTORY:

1. Change without regulatory effect amending subsection (a) filed 8-6-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 32).
2. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3136. Disapproval of Inmate Mail.

(a) Disapproval of inmate mail that is in clear violation of CCR sections 3006 or 3135 shall be referred to staff not below the level of Correctional/Facility Captain for determination and appropriate action. Disapproval of inmate mail that is not in clear violation of CCR sections 3006 or 3135 shall be referred to the Warden, but not lower than the Chief Deputy Warden, for determination and appropriate action. When incoming or outgoing mail/packages/publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications (Rev. 06/98) of the reason, disposition, name of official disallowing the mail/package/publication, and the name of the official to whom an appeal can be directed.

(b) When inmate mail is disapproved based on the criteria established in this section, a copy of the CDC Form 1819 and the supporting document(s) shall be retained by each facility for a minimum of seven years.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 2601(d), Penal Code.

HISTORY:

1. Amendment of section heading and section, and redesignation of former subsections 3136(a)–(h) to subsections 3006(c)(1)–(8) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of History1 (Register 95, No. 24).
3. Amendment of section heading and section, and redesignation of former subsections 3136(a)–(h) to subsections 3006(c)(1)–(8) refiled 6-13-95 as an emergency; operative 6-13-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 11-20-95 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 12-27-95 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 6-13-95 order transmitted to OAL 11-9-95; disapproved by OAL and order of repeal as to 6-13-95 order filed on 12-27-95 (Register 95, No. 52).
5. Amendment filed 12-27-95 as an emergency pursuant to Government Code section 11346.1; operative 12-27-95 (Register 95, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-25-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12-27-95 order including amendment of subsection (b) transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).
7. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3137. Appeals Relating to Mail and Correspondences.

(a) Inmates, their correspondents, and publishers may appeal departmental rules, regulations, policies, approved facility procedures and their application relating to mail and correspondence.

(b) Inmates shall use the established inmate appeal procedures as provided in section 3084.1, et seq. An inmate's submittal of an appeal within 15 days of a notice that mail is being designated as undelivered will postpone any disposition of the mail until an appeal decision is made at the third level of appeal review. If the inmate's appeal is denied at the third level of appeal review, the item of mail shall be disposed of as provided in subsection 3191(c).

(c) Persons other than inmates should address any appeal relating to department policy and regulations to the Director of the Division of Adult Institutions (DAI). Appeals relating to a specific facility procedure or practice should be addressed in writing to the Warden, or Associate Director of the facility where the appeal issue arises. A written response shall be provided within 15 working days. Appeals that are not satisfactorily resolved at this level may be forwarded in writing to the Director of the DAI who shall provide a written response within 20 working days.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 2601, Penal Code; and In re Muszalski, 52 Cal App. 3rd 500.

HISTORY:

1. Amendment of section heading, renumbering and amendment of former subsection 3147(a)(5)(C) to section 3137 subsection (b), and amendment of Note filed 6-6-96; operative 6-6-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 23).

2. Amendment of section heading and section filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3138. Indigent Inmates.

(a) Upon an indigent inmate's request, writing paper, envelopes, a writing implement, and the postage required for five 1-ounce First-Class letters per week shall be supplied. Inmates are not allowed to trade, transfer, or swap indigent inmate supplies with another inmate.

(b) Except as provided in subsection 3138(h) for mail to the courts or to the Attorney General, indigent inmates may request to mail any type of correspondence that weighs more than one ounce. Indigent inmates must relinquish the appropriate number of indigent envelopes to either their assigned Correctional Counselor or housing unit staff with the item to be mailed. If the item to be mailed weighs more than five ounces, the indigent inmate must relinquish all five indigent envelopes. Staff must forward the indigent envelopes with the item to be mailed to the mailroom with the notation that it is to be mailed for the indigent inmate. In order to facilitate this mailing, if requested, staff shall provide the indigent inmate with one appropriately sized envelope.

(c) Foreign mail requiring postage in excess of the minimum required for First-Class Mail shall be limited to two of the five letters.

(d) Indigent envelopes issued to an inmate become their property. The inmate shall be allowed to utilize the envelopes regardless of current financial status. A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials and postage provided, while the inmate was indigent as defined in subsection 3133(a)(5).

(e) All inmate requests for indigent envelopes shall be authorized by the Institutional Inmate Trust Account Office.

(f) Any inmate attempting to use a State issued envelope intended for another inmate who is indigent shall receive progressive discipline pursuant to CCR section 3312.

(g) Indigent inmates desiring to correspond with their attorney or any other confidential correspondent shall be required to utilize their weekly allotment of indigent supplies to send such correspondence.

(h) In addition to indigent writing supplies and postage for the five (5) one (1) ounce letters per week, indigent inmates shall have free and unlimited mail to any court or the Attorney General's Office.

(1) Upon request, institutions shall also provide indigent inmates free copying of the legal documents limited to the number of copies of a document required by the court, plus one copy for the opposing party and one copy for the inmate's records.

(2) If the case is accepted by the court, the need for future copies of legal documents and necessary postage will be evaluated on a case-by-case basis.

(3) A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials, copying and postage provided, while the inmate was indigent.

(i) Each institution shall establish local procedures for the issuance of writing supplies to indigent inmates.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; and *Procunier* v. *Martinez*, 416 U.S. 396; and *Bell* v. *Wolfish*, 99 S. Ct. 1861.

HISTORY:

1. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Reinstatement of section as it existed prior to emergency amendment filed 7-25-95 by operation of Government Code section 11346.1(f) (Register 95, No. 30).
3. Amendment of subsections (a)–(c) filed 7-25-95 as an emergency; operative 7-25-95 (Register 95, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-25-95 order transmitted to OAL 11-17-95 and filed 1-3-96 (Register 96, No. 1).
5. Renumbering of former subsections 3147(a)(9)(G) through (a)(9)(J) to newly designated subsections 3138(d) through (g), amendment of newly designated subsections (d)(1), (f)(1)–(f)(2), (g) and Note filed 6-6-96; operative 6-6-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 23).
6. Amendment of subsection (d)(1) filed 12-30-2003 as an emergency; operative 1-1-2004 (Register 2004, No. 1). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 6-9-2004 or emergency language will be repealed by operation of law on the following day.
7. Withdrawal and repeal of 12-30-2003 amendment filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 9-24-2004 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsection (d)(1) and Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).
10. Renumbering of former section 3138 to section 3134 and renumbering of former section 3134 to new section 3138, including repealer and new section, filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3139. Correspondence Between Inmates, Parolees, and Probationers.

Inmates shall obtain written authorization from the Warden/Regional Parole Administrator or their designee/assigned probation officer, person in charge of the County Jail and/or other State Correctional Systems, at a level not less than Correctional Captain/Facility Captain or Parole Agent III, to correspond with any of the following:

(1) Inmates under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.

(2) Persons committed to any county, state or federal program as a civil addict.

(3) Persons on parole or civil addict outpatient status under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.

(4) Persons on probation.

(b) Inmates may initiate requests to correspond with the above by contacting their Correctional Counselor I (CCI). Parolees may initiate request by contacting their Parole Agent (PA).

Inmates may be allowed to correspond with the persons described in subsections 3139(a)(1) through (4) provided those persons meet the criteria of approval of no known gang affiliation, or involvement with a known terrorist group or racketeering enterprise.

(c) The CCI/PA shall interview the inmate/parolee and/or review their C-file/Field File to obtain the information required to process an inmate's Request for Correspondence Approval, CDC Form 1074 (Rev. 08/87). If an inmate's request to correspond with another inmate/parolee is denied, the CCI/PA shall advise the inmate in writing.

(1) When reviewing the initiating inmates C-file, staff shall ascertain whether prior approval exists. If prior approval exists, a copy of the previously approved CDC Form 1074 shall be forwarded to both institutional mailrooms.

(2) When an initiating inmate's request to correspond with another inmate meets the criteria for approval per section 3139(b), and no prior approval exists, the CCI/PAI shall ensure that a CDC Form 1074 is completed.

(3) If the request is approved, staff shall retain the fifth page in the C-File/Field/File at the requesting institution/parole office. The remaining four pages shall be forwarded, intact, to the institution/ parole office/probation office/other county, state or federal facility where the other requested correspondent is housed. Neither a photocopy of the CDC Form 1074, nor the fifth page, shall be forwarded to the C-File or mailroom while the correspondence approval is pending.

(4) If the request to correspond is denied at the institution/ parole office/probation office/other state correctional facility, the reason for denial shall be annotated on the CDC Form 1074, and it shall be returned, in its entirety, to the sending institution/ parole office.

(5) Copies/photocopies shall not be delivered to the requested inmate, the receiving institutions mailroom, or the housing unit.

(6) Upon receipt of the disapproved CDC 1074, staff at the sending institution/field office shall ensure that the 2nd page is returned to the initiating inmate.

(7) If correspondence is approved at the institution/parole office, staff shall ensure that the CDC Form 1074 is completed. They shall retain the third and fourth pages for distribution. If the third page and fourth pages are not legible, the CCI/PAI shall make photocopies of the first page prior to forwarding the completed CDC Form 1074 to the sending institution. The approved CDC Form 1074 will be distributed as directed on the form.

(8) Photocopies of the CDC Form 1074 shall not be made for the housing unit(s). The housing units shall not keep records of approved correspondents.

(9) The mailroom supervisor shall establish and maintain a record of approved CDC Form 1074s.

(10) When a CDCR inmate requests to correspond with an inmate in a county, state, or federal facility, or if the request is from a county, state, or federal inmate, the CCI shall ensure that a CDC Form 1074 is completed along with a cover letter that thoroughly explains the need for the CDC Form 1074. If the request is denied, the CCI shall ensure that a letter is forwarded to the requesting agency thoroughly explaining the denial.

(d) There shall be no limits set on the number of times approved inmates/parolees/probationers can correspond with one another unless revoked. The approval to correspond may be revoked due to disciplinary violations involving correspondence between the inmates/parolees or as a result of a classification action based on safety and security. Any such restriction, or revocation of approval, shall be communicated to inmate(s)/parolee(s) and to the warden(s)/parole administrator(s) of the institution/facility where the inmate(s)/parolee(s) are housed.

(e) Wardens at institutions where there are segregated housing units such as, but not limited to, Security Housing Units (SHU), Administrative Segregation Units (ASU), and Psychiatric Services Units (PSU), shall outline in their local procedure any further restrictions on correspondence due to safety and security concerns, limited to those specific housing units.

(f) The most restrictive a facility can be with respect to inmate mail privileges is to limit correspondence between inmates to only the following:

(1) Immediate Family Members as defined in section 3000.

(2) Co-litigants on active cases, until the case is resolved.

(3) Incarcerated natural parent of the inmate's child.

A facility may not restrict mail privileges between an inmate and any of the above three types of correspondents, unless the inmate or the correspondent violates section 3006 or other CCR section.

(g) Approval to correspond shall remain in effect upon transfer to another departmental facility or another parole office.

(h) If an inmate's transfer is based on case factors that create security concerns, such as, but not limited to, placement in SHU, ASU, or PSU, a reexamination by committee of all approved correspondence shall be conducted. The CCI shall review and recommend to committee whether to continue approval of the correspondence.

(i) If an institution/parole office receives mail from an unapproved inmate/parolee correspondent, staff shall mark the envelope with ''Not an Approved Correspondent'' or equivalent language and return it to the sender.

(j) Inmates confined in departmental facilities may correspond with former inmates. Prior approval of the warden, superintendent, or person in charge of the correctional facility is required if the person was discharged from a facility within the past twelve months.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procunier* v. *Martinez*, 416 U.S. 396; and *Bell* v. *Wolffish*, 99 S. Ct 1861.

HISTORY:

1. Change without regulatory effect amending first paragraph and subsection (b) filed 4-4-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 14).
2. Amendment of section heading and section, including renumbering and amendment of former section 3140 to new subsection 3139(j), filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3140. Funds Enclosed in Correspondence.

(a) Funds may be mailed to an inmate in the form of a money order, certified check, personal check, or any other negotiable means except cash and Travelers Checks.

(1) The check or money order shall be made payable to the California Department of Corrections and Rehabilitation with the inmate's last name and departmental identification number. This information shall be on the face of the check or money order.

(2) Funds from other inmates/parolees shall be only accepted from approved correspondents, pursuant to section 3139, who are members of the same family, or the parent of the inmate's child(ren).

(3) Funds received in the mail shall be removed from the envelope by mailroom staff, and the envelope shall be imprinted with a stamp that reads ''Funds Enclosed.'' The date, amount, and initials of the person processing the funds shall be recorded on the envelope before it is forwarded to the inmate. The stamped envelope is the inmate's receipt for the funds.

(4) Cash received in incoming mail will be returned to the sender. Mailroom staff shall notify the inmate in writing, informing them that cash was received and will be returned to sender. The envelope containing the cash and two copies of the memo will be forwarded to the Inmate Trust Office to be returned to the sender.

(5) Mailroom staff shall arrange the day's remittances in numerical order. The remittances shall be listed in sequence on the report of collections. This report shall include each inmate's name, departmental identification number, type of payment amount and the total received.

(b) Generally, inmates are not eligible to receive Supplemental Security Income (SSI) checks from the Social Security Administration, Veteran Affairs Benefits, or Welfare checks from the California Department of Social Services/County Welfare agencies. Depending upon eligibility, inmates may be allowed to receive tax refund checks.

(1) A facility representative shall be appointed by the Associate Warden, Business Services, to assist outside agencies in determining an inmate's eligibility.

(2) Mailroom staff shall deliver all received SSI, Veteran Affairs Benefits, and/or welfare and/or tax refund checks to the Inmate Trust Office. The Accounting Officer shall notify the facility representative that checks are being held pending determination of

eligibility of the inmates to receive the checks. The facility representative shall notify the appropriate agency.

(3) Unauthorized checks shall be returned to the appropriate agency.

(c) When a U.S. Government check is received for an inmate who is deceased or discharged from CDCR, the check and envelope shall be returned to the sending agency with the necessary information shown as to the inmate being deceased or discharged.

(1) If an inmate has been transferred to another facility, the check shall be forwarded including a note requesting the inmate to notify the state or federal agency of their change of address.

(2) Mail received for inmates who have been paroled shall be forwarded to the office of the parole region to which the inmate was released, or if unable to locate the parolee, the check should be returned to the originating state or federal agency.

(d) Funds not in the form of money orders or certified checks shall not be released for spending by the inmate until the funds have cleared the bank upon which they were drawn. When personal checks are received, the face of the envelope in which the check was received shall be imprinted with a stamp that reads that the personal check has been accepted at this time.

(e) No foreign currency shall be accepted. If foreign currency is received, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states it is unauthorized.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2601, Penal Code.

HISTORY:

1. Renumbering of former section 3140 to subsection 3139(j) and new section 3140 filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3141. Confidential Correspondence.

(a) Confidential correspondence is a right guaranteed by law. Using confidential correspondence for personal non-business correspondence, the transmission of contraband items, or the smuggling of letters and other communications to be forwarded to persons not listed in subsection (c) is an abuse of this right and such proven abuse may be subject to disciplinary action as described in Sections 3314 and 3315.

(b) Confidential mail will not be limited to First Class mail standards. Mail received from confidential correspondents will be processed regardless of weight or postage class.

(c) Persons and employees of persons with whom inmates may correspond confidentially and from whom inmates may receive confidential correspondence include:

(1) All state and federal elected officials.

(2) All state and federal officials appointed by the governor or the President of the United States.

(3) All city, county, state and federal officials having responsibility for the inmate's present, prior or anticipated custody, parole or probation supervision.

(4) County agencies regarding child custody proceedings, as clearly identified in the communication and listed on the envelope.

(5) All state and federal judges and courts.

(6) An attorney at law, on active status or otherwise eligible to practice law, listed with a state bar association.

(7) All officials of a foreign consulate.

(8) The Secretary, Undersecretary, Chief Deputy Secretaries, Executive Director, Assistant Secretaries, Division Directors, Deputy Directors, Associate Directors, the Chief, Inmate Appeals, and the Lead Ombudsman's Office of the Department.

(9) A legitimate legal service organization that consists of an established group of attorneys involved in the representation of offenders in judicial proceedings including, but not limited to:

(A) The American Civil Liberties Union.

(B) The Prison Law Office.

(C) The Young Lawyers Section of the American Bar Association.

(D) The National Association of Criminal Defense Lawyers.

(E) California Appellate Project.

(d) All incoming confidential mail from an attorney or legal service organization shall include the attorney's name, title, and return address of their office. Institution mailroom staff shall contact the CDCR Office of Legal Affairs Division at Headquarters if there is any question regarding the legitimacy of a legal service organization.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 5054, Penal Code; and In re Jordan, 12 CA 3rd 575 (1974); and *King* v. *Borg*, USDC-ED Case No. CIV. S-87–0519 LKK/PAN/P.

HISTORY:

1. Editorial correction of subsection (a) filed 2-19-85 (Register 85, No. 8).
2. Change without regulatory effect adopting new subsection (c)(8) and amending Note filed 8-19-93; operative 8-19-93 (Register 93, No. 34).
3. Repealer of subsection (c)(6) and subsection renumbering filed 4-8-96 as an emergency; operative 4-8-96 (Register 96, No. 15). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 9-15-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4-8-96 order transmitted to OAL 9-13-96 and disapproved 10-28-96 (Register 96, No. 44).
5. Repealer of subsection (c)(6) and subsection renumbering filed 10-28-96 as an emergency; operative 10-28-96 (Register 96, No. 44). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 4-6-97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-28-96 order transmitted to OAL 3-3-97 and filed 4-14-97 (Register 97, No. 16).
7. New subsection (c)(4), subsection renumbering, and amendment of Note filed 7-28-97 as an emergency; operative 7-28-97 (Register 97, No. 31). Pursuant to Penal Code 5058(e), a Certificate of Compliance must be transmitted to OAL by 1-5-98 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 7-28-97 order, including further amendment of subsection (c)(4), transmitted to OAL 12-2-97 and filed 1-15-98 (Register 98, No. 3).
9. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3142. Processing of Outgoing Confidential Mail.

In order to be accepted and processed as confidential correspondence, an inmate's letter shall comply with the following requirements:

(a) The letter must be addressed to a person or to the office of a person listed in Section 3141. The address of an attorney must match the address listed with the State Bar.

(b) The inmate's full name, department identification number, and the address of the facility shall be included in the return address appearing on the outside of the envelope.

(c) The word ''confidential'' shall appear on the face of the envelope. Failure to do this will result in the letter being processed as regular mail or being returned to the inmate if for any reason the mail cannot be processed as regular mail.

(d) Inmates shall post confidential mail by presenting the mail unsealed to designated staff. In the presence of the inmate, the staff shall remove the contents of the envelope upside down to prevent reading of the contents. Staff shall remove the pages and shake them to ensure there is no prohibited material, consistent with these regulations. If no prohibited material is discovered, the contents shall be returned to the envelope and sealed. Staff shall place their signature, badge number and date across the sealed area on the back of the envelope. Staff shall then deposit the confidential mail in the appropriate depository.

(e) If prohibited material is found in the confidential mail, the prohibited material shall be confiscated; however, the letter may be returned to the inmate or mailed following the process outlined above. If the prohibited material indicates a violation of the law or intent to violate the law, the matter may be referred to the appropriate authorities for possible prosecution. Administrative and/or disciplinary action shall also be taken against all parties involved.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2601, Penal Code.

HISTORY:

1. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3143. Processing Incoming Confidential Mail.

Incoming letters must show the name, title, return address and the office of persons listed in Section 3141 on the outside of the envelope to be processed as confidential correspondence. An attorney's return address must match the address listed with the State Bar. A notice or request for confidentiality is not required on the envelope. Correspondence that is appropriately addressed with a return address that indicates it may be confidential shall be processed and treated as confidential correspondence whether or not it is stamped as such.

(a) Designated staff shall open the letter in the presence of the addressed inmate at a designated time and place. Staff shall not read any of the enclosed material. Staff shall remove the pages and shake them to ensure the absence of prohibited material.

(b) Inmates shall sign for all confidential mail at the time of delivery. This shall be accomplished by use of a permanent logbook or use of receipts. If receipts are used, the receipts shall be forwarded to the mailroom for filing. The log book at a minimum must record the date of delivery, the inmates name and departmental identification number, and the senders name and address.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2601, Penal Code.

HISTORY:

1. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3144. Inspection of Confidential Mail.

Confidential mail will be opened and inspected for contraband in the presence of the inmate addressee. Inspecting correctional officials will not read any of the contents of the confidential mail. Confidential mail may be further inspected, for cause only.

(a) Cause may include, but is not limited to, the reasonable belief by correctional officials that the letter is not addressed to or is not from an official or office listed in Section 3141 or when other means of inspection indicates the presence of physical contraband in the envelope. In such instances the mail will be opened in the presence of the inmate for determination.

(b) Administrative action may be taken to restrict, for cause, the confidential mail privileges afforded to an attorney pursuant to this Article.

(1) A first offense of a non-serious mail rule violation of the department's mail regulations shall result in a written warning or up to a six-month suspension of the attorney's confidential mail privileges. A non-serious mail violation means a violation of the inmate regulations that is not chargeable as a felony but is nevertheless unlawful, such as an enclosure of contraband into the confidential mail, or a misrepresentation of the sender or addressee's identity.

(2) A second offense of a non-serious mail rule violation shall result in modification/suspension of confidential mail privileges for a period of up to twelve months.

(3) A third offense of a similar nature and/or a first offense that could be charged as a felony that jeopardizes the safety of persons, or the security of the facility, shall result in confidential mail privileges being suspended from one year up to an indefinite period of time.

(4) The attorney must petition the Warden or Director of the Division of Adult Services (DAI) for reinstatement of confidential mail privileges.

The confidential mail privilege may be a statewide suspension for any offense that could be prosecuted as a felony. Only the Director of the DAI or designee shall issue a statewide suspension of confidential mail privileges.

(c) Upon determining that the envelope contains prohibited material or that there is a misrepresentation of the sender's or the addressee's identity the letter and any enclosures may be examined and read in its entirety to determine the most appropriate of the following actions:

(1) When the prohibited material or misrepresentation of identity indicates a violation of the law or an intent to violate the law, the matter will be referred to the appropriate criminal authorities for possible prosecution. Any case referred to criminal authorities will be reported to the Director of the DAI. When a case is referred to criminal authorities and the determination is made not to prosecute, the fact of the referral and the determination made will be reported to the inmate and to the inmate's correspondent. The Director of the DAI will be informed of the outcome of all referrals to criminal authorities.

(2) When an inmate's action or complicity indicates a violation of law; the regulations set forth in this article; or approved facility mail procedures; the matter may also be handled by appropriate disciplinary action.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2601, Penal Code; and *Wolff* v. *McDonald*, 94 S. Ct. 2963 (1974).

HISTORY:

1. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3145. Enclosures in Confidential Mail.

When the inspection of confidential correspondence discloses written or printed enclosures, the enclosures will be treated in the same manner as confidential correspondence. The inmate will not be given the enclosures or be allowed access to the enclosures except as authorized in the following subsections:

(a) The inmate may consent to an immediate examination of the enclosure by staff who issues mail. Such examination will be limited to the extent necessary to determine if the enclosure may be safely admitted into the facility under the standards of Penal Code Section 2601. The conclusion of the examiner will be written on the enclosure, and be dated and signed by the examiner. If the enclosure can be safely admitted into the facility, it will be given to the inmate. If in the examiner's opinion the enclosure does not meet the standards of Penal Code Section 2601 and cannot be safely admitted into the facility, it will be referred to staff at not less than the Correctional/Facility Captain level, for final determination. If not released to the inmate at this level, the inmate will be allowed access to the enclosure only as authorized in subsection (b).

(b) The inmate may decline to consent to examination of enclosures in confidential mail by any staff. When this occurs, the enclosure will be immediately placed in a separate envelope and the envelope will be sealed in the presence of the inmate. The separate envelope will, at the inmate's choosing, be returned to the sender with the mailing cost charged to the inmate's trust account, or disposed of pursuant to section 3191(c). The inmate is entitled to keep the letter or correspondence and the envelope it came in.

(c) Any person who examines the content of mail under the authority of this article or in connection with an appeal by an inmate of a ruling under this article, must keep the content of the material which was examined in strict confidence. No original, copy, excerpt, or summary of personal correspondence to or from

an inmate shall be made or be placed in an inmate's C-file unless such correspondence is or has been the subject of:

(1) Legal, disciplinary, criminal investigation, or casework determination and actions affecting the inmate.

(2) When the recipient of an inmate's disturbing or offensive mail corresponds with the facility and requests administrative action, subject to section 3135.

(3) If an inmate requests that a copy of personal correspondence be placed in their C-file and the inmate's caseworker deems it appropriate to do so based on the relationship of the correspondence to the inmates incarceration.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2600, Penal Code; and In re Jordan, 12 CA 3rd 575 (1974).

HISTORY:

1. Change without regulatory effect amending subsection (a) filed 4-3-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 14).
2. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3146. Mail in Languages Other Than English.

Mail may be subject to a delay for translation of its contents by staff. When such delay exceeds normal mail processing by five business days, the inmate shall be notified in writing of the delay, the reason for the delay, and subsequent determinations and actions regarding that item of mail. If staff are unable to translate the letter and its contents within 20 business days of notice to the inmate, then the letter shall be delivered to the inmate untranslated.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 2601, Penal Code.

HISTORY:

1. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Amendment refiled 6-13-95 as an emergency; operative 6-13-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 11-20-95 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 12-27-95 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 6-13-95 order transmitted to OAL 11-9-95; disapproved by OAL and order of repeal as to 6-13-95 order filed on 12-27-95 (Register 95, No. 52).
4. Amendment filed 12-27-95 as an emergency pursuant to Government Code section 11346.1; operative 12-27-95 (Register 95, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-25-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-27-95 order including amendment of section transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).
6. Amendment filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3147. Definition and Disposition of Mail.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2080, 2600, 2601, 4570 and 5054, Penal Code; *Procunier* v. *Martinez*, (1974) 416 U.S. 396; *Bell* v. *Wolfish*, (1979) 99 S. Ct. 1861; *Thornburgh* v. *Abbott* (1989) 109 S. Ct. 1874; *Turner* v. *Safely* (1987) 107 S. Ct. 2256; and Sections C031.3.0 and C031.5.4, Domestic Mail Manual, issue 46 7/1/93, U.S. Postal Regulations.

HISTORY:

1. Amendment of subsection (a)(9)(G) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
2. Editorial correction of subsection (a)(9)(G) filed 2-17-83 (Register 83, No. 8).
3. Editorial correction of printing error in subsection (a)(5)(A) (Register 92, No. 5).
4. Amendment of subsection (a)(2) and Note filed 6-17-94 as an emergency; operative 6-17-94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-15-94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-17-94 order transmitted with amendments to OAL 10-17-94 and filed 12-1-94 (Register 94, No. 48).
6. Amendment of subsection (a)(9)(I) and Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsections (a)(9)(I)1.-5. and Note refiled 6-13-95 as an emergency; operative 6-13-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 11-20-95 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to emergency amendment filed 12-27-95 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 6-13-95 order transmitted to OAL 11-9-95; disapproved by OAL and order of repeal as to 6-13-95 order filed on 12-27-95 (Register 95, No. 52).
9. Amendment filed 12-27-95 as an emergency pursuant to Government Code section 11346.1; operative 12-27-95 (Register 95, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-25-96 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 12-27-95 order including amendment of subsections (a)(5) and (a)(5)(A), relocation of former subsection (a)(5)(C) to section 3137(b), redesignation and amendment of former subsection (a)(6) to subsection (a)(5)(B), repealer of former subsections (a)(6)(A) through (a)(6)(D) and subsection renumbering, amendment of newly designated subsections (a)(6), (a)(7), (a)(8)(C) through (a)(8)(E), and relocation of former subsections (a)(9)(G) through (a)(9)(J) to section 3138(d) through (g) transmitted to OAL 4-25-96 and filed 6-6-96 (Register 96, No. 23).
11. Renumbering of former section 3147 to new section 3133 filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

Article 5. Inmate Manuscripts

3150. Definitions.

HISTORY:

1. Change without regulatory effect repealing section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).

3151. Possession.

Any manuscript as defined in section 3000 remains the property of the inmate who created it. It may be retained in the inmate's possession except as otherwise described in section 3152.

Comment: Former DP-2502, possession of manuscripts.

HISTORY:

1. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).

3152. Unauthorized or Dangerous Material.

(a) If unauthorized state materials have been used in the creation of a manuscript, the item may be impounded pending disciplinary action and reimbursement by the inmate for materials used.

(b) An inmate will not be permitted to retain in his or her personal possession manuscripts, which violate the provisions of Section 3006. Any such manuscript will be confiscated and disposed of in accordance with the provisions of Section 3006(c), or providing there is no conflict with the regulations governing mail and handicraft as set forth in Subchapter 1, Articles 2 and 4

of these regulations, the manuscript and related material may be sent to a person outside the correctional facility as designated by the inmate.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code.

HISTORY:
1. Repealer and new subsection (b) filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).

3153. Mailing.

Incoming and outgoing manuscripts will be processed as regular mail in accordance with the provisions of Sections 3136 and 3138.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5055, Penal Code.

HISTORY:
1. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).

Article 6. Legal Documents

3160. Inmate Access to Courts.

(a) Inmate access to courts shall not be obstructed. Staff shall assist illiterate inmates or those physically incapable of preparing forms adopted under rules of the United States courts and the Judicial Council of California for petitions for habeas corpus or modification of custody if such an inmate requests assistance. Staff shall not in any way retaliate against or discipline any inmate for initiating or maintaining a lawsuit.

(b) In addition to any other court costs, filing fees, or procedures, an inmate initiating a state civil action shall pay a three-dollar ($3) filing fee to the Department.

(1) Civil actions are defined as any non-criminal actions. For the purposes of this regulation, habeas corpus actions are not considered civil actions.

(2) The filing fee shall be charged against the inmate's trust account.

(3) If the inmate is without sufficient funds at the time of the charge, the civil action shall be allowed to be transmitted to the courts, and the inmate shall not be charged for any remaining balance of the filing fee.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 2601, Penal Code.

HISTORY:
1. Amendment of section heading and text and new Note filed 10-19-93; operative 11-18-93 (Register 93, No. 43).
2. Newly designated subsection (a), new subsections (b)–(b)(2) and amendment of Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 7-25-95 by operation of Government Code section 11346.1(f) (Register 95, No. 30).
4. New emergency amendment filed 7-25-95; operative 7-25-95 (Register 95, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-25-95 order transmitted to OAL 9-7-95 and filed 10-16-95 (Register 95, No. 42).

3161. Inmate-Owned Legal Materials.

Inmate-owned legal materials/documents, law books and papers shall be limited to the availability of space authorized by section 3190(b) for personal property in the inmate's quarters/living area except as specified in this section. Inmates may possess up to one cubic foot of legal materials/documents related to their active cases, in excess of the six cubic feet of allowable property in their assigned quarters/living area. Legal materials/documents, law books and papers in excess of this limitation shall be disposed of pursuant to section 3191(c). Inmates may request the institution/facility store excess legal materials/documents related to their active cases(s) when such materials/documents exceed this one cubic foot additional allowance. Inmate-owned law books in excess of the additional allowance shall not be stored by the institution/facility.

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

HISTORY:
1. Amendment of section heading and text and new Note filed 10-19-93; operative 11-18-93 (Register 93, No. 43).
2. Amendment filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3162. Legal Forms and Duplicating Services.

(a) The printed forms required by state and federal courts, which are supplied to the department by the courts shall be provided to inmates without charge. Inmates shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts. An inmate who is without funds for 30 days or more after such materials and services are provided shall not be required to pay for the cost of those materials and services.

(b) Legal duplicating services for an inmate shall be restricted (provided such restrictions will not interfere with the inmate's access to the courts) when that inmate abuses the service to such an extent that other inmates are deprived of the services or it results in an unnecessary expense to the state. The authority to place such restrictions shall not be delegated to staff below the level of correctional captain. The reasons for any restrictions on the services provided an inmate shall be documented on a CDC Form 128-B (Rev. 4.74), General Chrono, and placed in the inmate's central file.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Amendment filed 4-8-80; effective thirtieth day thereafter (Register 80, No. 16).
3. Amendment of section heading and text filed 10-19-93; operative 11-18-93 (Register 93, No. 43).

3163. Assisting Other Inmates.

One inmate may assist another in the preparation of legal documents, but shall not receive any form of compensation from the inmate assisted. Legal papers, books, opinions and forms being used by one inmate to assist another may be in the possession of either inmate with the permission of the owner. All papers must be returned to the respective owners when either inmate is transferred to another institution or when other administrative action prevents direct communications between the inmates. An inmate may be barred from giving legal assistance to other inmates when violations of regulations and established procedures relate directly to such activities. An inmate will not be barred from giving or receiving legal assistance for violations of regulations and procedures which are unrelated to providing or receiving legal assistance. However, no otherwise prohibited contacts or access to prohibited areas will be permitted because of this regulation.

NOTE: Authority cited: section 5058, Penal Code. Reference: *Johnson* v. *Avery,* 89 S. Ct. 747 (1969).

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).

2. Amendment filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).

3164. Administrative Segregation.

(a) Inmates confined in administrative segregation for any reasons will not be limited in their access to the courts.

(b) During a period of disciplinary detention, as described in Section 3330, legal resources may be limited to pencil and paper which will be provided upon request for correspondence with an attorney or the preparation of legal documents for the courts. Other legal material in the inmate's personal property may be issued to an inmate in disciplinary detention if litigation was in progress before the inmate's placement in disciplinary detention and legal due dates are imminent.

(c) Inmates who are housed in any restricted unit and who are not serving a period of disciplinary detention may possess and have access to any legal resource material available to the general population and may assist each other in their legal work to the extent compatible with institution security. For the purpose of this subsection, restricted units include reception centers, institution reception or orientation units, controlled housing and security housing units.

(d) If an inmate's housing restricts him or her from going to the inmate law library, arrangements will be made to deliver requested and available law library material to the inmate's quarters.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).

3165. Mailing Legal Documents.

(a) The mailing of legal documents to courts and claims to the Board of Control (BOC) is the inmate's responsibility. Mail designated by the inmate as legal mail will be delivered to the facility mailroom for inspection, pursuant to Sections 3144 and 3145, and mailing in accordance with local facility mail procedures. The mailroom shall maintain a current address list of federal, state, county, appellate, and district courts. The mailroom will send mail out each working day.

(b) With each transmittal of mail to a court or claim filed with the BOC requiring the addition of postage, the inmate must submit a signed CDC Form 193, Trust Account Withdrawal Order. The mailroom will remove the trust account withdrawal order, enter the amount of postage required, and forward the order to the trust office for processing. Mail addressed to a court or claims addressed to the BOC will be posted on the inmate's CDC Form 119, Mail Record.

(c) Notarization of legal documents is not normally required by the courts and will not be provided as a free service to any inmate, indigent or not. Inmates must pay the established notary fee for such service.

(d) The cost of postage for mailing documents to the courts will be charged against an inmate's trust account unless the inmate is without funds at the time the material is submitted for mailing and remains without funds for 30 days after the documents are mailed.

NOTE: Authority cited: section 5058, Penal Code. Reference: *In re Jordan,* 7 Cal. 3rd 930 (1972).

HISTORY:

1. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. New subsection (d) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
3. Amendment filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
4. Amendment of subsections(a) and (b) and amendment of Note filed 11-18-96; operative 12-18-96 (Register 96, No. 47).

Article 7. Visiting

3170. General Visiting.

(a) These regulations are made in recognition and consideration of the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation. It is the intent of these regulations to establish a visiting process in the institutions/facilities of the department that is conducted in as accommodating a manner as possible, subject to the need to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations.

(b) The privacy of inmates and their visitors shall be respected subject to the need to verify the identity of an inmate or visitor; enforce laws, regulations, and procedures; and/or ensure the safety of persons and institution/facility security. Video-recording devices may be utilized in visiting areas, excluding family visiting units or confidential attorney consultation areas.

(c) Visits with inmates may, without prior notification, be terminated, temporarily suspended, or modified in response to an institution/facility emergency as determined by the institution head or designee. Emergency modifications of the visiting schedule shall be posted at the institution/facility as soon as practical and will be included in the automated telephonic visiting information system.

(d) Devices that do not allow physical contact between inmates and visitors shall not normally be used, except as provided in section 3170.1 or as necessary in the following circumstances:

(1) Physical contact with a visitor(s), or with other inmates, will seriously endanger the safety of persons or the security of the institution/facility,

(2) As a temporary measure for willful failure or refusal to abide by visiting regulations.

(e) Each inmate and visitor is responsible for his or her own conduct during visits. Any violation of laws, regulations, or local procedures governing visits may result in termination, suspension, revocation, or denial of visiting with the person or persons involved, as described in section 3176. Such violation may also result in exclusion from the facility, as described in section 3176.3.

(f) Reasonable accommodation shall be afforded visitors and inmates with disabilities to facilitate their full participation in contact, non-contact, or family visiting as provided in these rules.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 5054 and 6400, Penal Code; and *In re French,* 164 Cal Rptr. 800 (1980).

HISTORY:

1. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
3. Amendment of subsection (d) filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Amendment of subsections (a), (c) and (e) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
5. Editorial correction of printing error restoring subsection (g) (Register 94, No. 2).
6. Repealer of former article 7 (sections 3170–3179) and new article 7 (sections 3170–3179) and repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
7. Change without regulatory effect amending subsection (e) filed 5-22-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 21).

3170.1. General Visiting Guidelines.

(a) Visiting is permitted only in designated areas and at designated times.

(b) Inmates shall not be permitted to visit during the hours of their assignment to work, training, vocational and/or academic education, except as provided in section 3045.2.

(c) No limitations shall be placed on the number of visitors approved to visit an inmate. However, limitations on the length and frequency of visits may be imposed to avoid overcrowding or the inequitable allocation of visiting time or for other reasons as provided in section 3176.

(1) An inmate shall not be permitted a contact visit with more than five persons, including minors, at the same time. Groups of visitors in excess of five may be accommodated only once per visit by means of rotation through the visiting area. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress in accordance with 3176(a)(9) and (10).

(2) An inmate shall not be permitted a non-contact visit with more than three persons, including minors, at the same time. Groups of visitors in excess of three may be accommodated only one per visit by means of rotation through the visiting area. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress in accordance with 3176(a)(9) and (10).

(d) Visiting with more than one inmate at the same time, shall require that both inmates are approved to visit in the same visiting room, and that either:

(1) The visitors and inmates are immediate family members as defined in Section 3000; or

(2) The visitor(s) has prior written approval from the institution/facility head or designee.

(e) Inmates undergoing reception center processing shall be limited to non-contact visiting. If non-contact visiting cannot be accommodated because of physical plant limitations, the institution head shall take such limitations into account in establishing an alternative visiting plan. Inmates with disabilities, who remain at the reception center for extended stays (exceeding 60 days) due to their disability, shall be authorized regular visiting privileges.

(f) Inmates assigned to Administrative Segregation and Security Housing Units shall be eligible for non-contact visits only. On a case-by-case basis, the institution head or designee may allow contact visits for administratively segregated inmates. Visitors who have made appointments in advance for non-contact Administrative Segregation and Security Housing Unit visits shall be given priority. Non-contact visits shall be scheduled in one-hour increments and may be extended based on space availability. When overcrowding occurs, those who have visited at least one-hour and who have been visiting for the longest time may have their visits terminated as outlined in sections 3176(a)(9) and (10).

(g) During contact visits, the inmate and visitor may pass, exchange, or examine any item of property or consume food either party is permitted to bring into or purchase in the visiting area, except those items that are deemed to be contraband when in the possession of the inmate. Neither party may retain or take anything from the visiting area which the other party was permitted to bring into or purchase in the visiting area, except legal documents as provided in section 3178, and photographs that are taken during the visit.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601(c)(2), 4570 and 5054, Penal Code.

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
2. Change without regulatory effect amending subsection (c)(1) and Amending Note filed 5-22-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 21).
3. Amendment of subsection (d)(1) filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).

3170.5. Child Victim Visiting Restrictions.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; and section 362.6, Welfare and Institutions Code.

HISTORY:

1. New section filed 8-12-93; as an emergency; operative 8-12-93 (Register 93, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-10-93 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-12-93 order including amendments transmitted to OAL 11-20-93 and filed 1-11-94 (Register 94, No. 2).
3. Repealer filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3171. Visiting Procedures.

(a) The institution head shall maintain visiting procedures for inmate visiting at each institution/facility. All local visiting procedures must conform to and shall not conflict with the rules and regulations set forth in this article. The degree of informality of inmate visiting will be consistent with the security requirements of each institution/facility.

(b) Inmates shall be informed of local visiting procedures and shall be given a written summary of all rules, regulations and procedures governing visiting at the institution/facility. Additional copies shall be readily available for inmates to give or send to their visitors. The written summary shall include the institution/facility visiting schedule. This same summary will be conspicuously displayed in all public entrances to the institution/facility and will be available to any interested person. Institutions/facilities shall have the visiting days and hours, as well as appropriate dress standards, clearly published in the visiting centers and in the visitor processing area.

(c) Inmates may refuse to see a visitor. Such refusal shall not result in removal of the visitor from the inmate's visitor list. To remove a visitor from their approved visitor list, inmates shall submit a written request to the visiting staff. After six months, the inmate may make a written request to have the visitor placed back on their approved visitor list. At this time, the visitor shall reapply for approval to visit by submitting a visiting questionnaire.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2080, 2086, 2930, and 5054, Penal Code.

HISTORY:

1. Amendment of subsection (b) filed 8-27-82; effective thirtieth day thereafter (Register 82, No. 35).
2. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
3. Change without regulatory effect amending Note filed 5-22-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 21).

3172. Applying to Visit an Inmate.

(a) It is the inmate's responsibility to forward a visiting questionnaire to any prospective visitor.

(b) All adults seeking to visit an inmate shall provide a completed visiting questionnaire and obtain institution/facility approval before they may be permitted to visit with an inmate.

(1) An emancipated minor shall apply as an adult visitor, and shall provide a certified copy of the court order granting emancipation.

(2) A minor legal spouse of an inmate may apply to visit the inmate as an adult visitor with a certified copy of their marriage license.

(c) Minor visitors shall have prior written approval from a parent or legal guardian unless the minor applies as an adult as provided in (b) above. Except when prior approval has been obtained from the institution head or designee for an inmate to visit with his or her unchaperoned minor children or siblings, visitors under 18 years of age shall be accompanied by an adult who is also approved to visit.

(d) It is a felony for any former prison inmate to come on institution/facility property for any reason, without prior approval of the institution head or designee. Requests must be made in

writing and include a visiting questionnaire and a Certificate of Discharge. Parolees and prospective visitors under probation or civil addict outpatient supervision shall provide written proof of permission to make such a visit from their case supervisor.

(e) The visiting approval application process shall include an inquiry of personal, identifying, and the arrest history information of the prospective visitor sufficient to complete a criminal records clearance applicant and a decision by the institution/facility designated staff to approve or disapprove based upon the information provided. This information is subject to periodic review by designated staff. Any change in the visitor's name, address, telephone number, or arrest history must be reported and may require submission of an updated questionnaire in order to retain the status of an approved visitor.

(f) Previously approved visitors shall submit a new visiting questionnaire prior to visiting any inmate who has been returned to an institution/facility from parole or admitted into a substance abuse treatment control unit while on parole. The visitor shall not be allowed to visit prior to obtaining the institution/facility approval.

(g) The applicant shall return the completed questionnaire to the institution/facility via common carrier or personal delivery (except as provided in subsection (d) above) addressed to the attention of ''Visiting''. Any questionnaire received by the visiting office directly from an inmate shall be disapproved. Approved visitors required to update information in accordance with (e) above, shall, absent information which would warrant immediate disapproval, be allowed to continue to visit pending review and approval/disapproval of the questionnaire.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 4570.5 and 5054, Penal Code.

HISTORY:

1. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
3. Change without regulatory effect amending Note filed 5-22-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 21).

3172.1. Approval/Disapproval of Prospective Visitors.

(a) The authority to approve or disapprove prospective visitors may be delegated by the institution head. This authority shall not be delegated below the level of a correctional sergeant or parole agent II.

(b) Reasons for disapproving a prospective visitor include but are not limited to the following:

(1) The prospective visitor has outstanding arrests/warrants including a Department of Motor Vehicles Failure to Appear notice with no disposition from the court.

(2) The prospective visitor has one felony conviction within the last three years or two felony convictions within the last six years or three or more felony convictions during the last ten years.

(3) The prospective visitor has any one conviction of the following types of offenses:

(A) Distributing a controlled substance into or out of a state prison, correctional institution/facility or jail.

(B) Transporting contraband (weapons, alcohol, escape and drug paraphernalia, etc.) in or out of a state prison, correctional institution/facility or jail.

(C) Aiding or attempting to aid in an escape or attempted escape from a state prison, correctional institution/facility or jail.

(D) The prospective visitor is a co-offender of the incarcerated inmate.

(4) The prospective visitor is a former prison inmate who has not received the prior written approval of the institution head or designee. After one year from the date of a former inmate's discharge from an institution/facility, or after discharge from parole or outpatient status, the institution head will only deny visiting by a former prison inmate for reasons that would apply to any other person as set forth in this article.

(5) The prospective visitor is a supervised parolee, probationer, or on civil addict outpatient status and has not received written permission of his or her case supervisor and/or the prior approval of the institution head.

(6) The identity of the prospective visitor or any information on the visiting questionnaire, is omitted or falsified.

(A) If the prospective visitor has omitted information, the request to visit shall be reconsidered when the information is provided.

(B) If the applicant has falsified information no other request to visit shall be considered until six months after the date of disapproval.

(C) When positive identity cannot be established or clearing the criminal history of the prospective visitor is not possible due to inadequate or conflicting information, the visiting request will be reconsidered when positive identity is established.

(c) The documentation of the approval or disapproval of an application to visit shall be in writing.

(1) If the application is approved, the inmate shall be notified in writing and is responsible for informing their prospective visitor(s) of the institution/facility decision to approve the application.

(2) If disapproved, the prospective visitor and inmate shall both be notified in writing. The prospective visitor's notification shall include the specific reason(s) for disapproval and instructions regarding the process for reconsideration.

(d) The prospective visitor may appeal the disapproval by following the established visitor appeal process described in section 3179.

(e) Approval to visit an inmate is conditioned upon compliance with all laws, regulations, and procedures governing visitor conduct on institution/facility property.

(f) There are no restrictions on the number of inmates that a visitor may be approved to visit at one or more institution/facility.

(g) Any visitor approved for visiting at one institution/facility shall be approved to visit the same inmate upon transfer to another institution/facility provided the visitor's approval status remains unchanged.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3172.2. Minimum Visiting Days and Hours.

(a) Each institution/facility shall provide visiting for no less than 12 hours per week. Any reduction of an institution/facility visiting schedule below 12 hours shall require the prior approval of the director or designee. Regular visiting days shall be consecutive and include Saturday and Sunday.

(b) Each institution head shall develop an operational supplement that includes the respective visiting schedules as follows:

(1) Regular Visiting Days: Four days (Thursday through Sunday); or Three days (Friday through Sunday); or Two days (Saturday and Sunday); and

(2) Holiday Visiting Days: New Year's Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

(3) Visiting Appointments: The institution/facility shall specify procedures and criteria for scheduling visiting appointments for non-contact visits in accordance with the provisions of this article.

(c) When a holiday listed in (b)(2) occurs on a day not regularly scheduled for visiting, each institution/facility shall provide the same number of hours of visiting on that holiday as for any single regularly scheduled visiting day.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 5054, penal code. *In re French,* 164 Cal.Rptr. 800 (1980).

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3173. Processing of Approved Visitors.

(a) Approved visitors shall complete a visitor pass upon their arrival at the institution/facility visitor processing center and their approval to visit shall be verified.

(b) All adult visitors shall present picture identification before being permitted to visit. For each minor, a certified record of birth (official birth certificate, or county embossed abstract of birth) shall be presented during each visit.

(c) Acceptable proof of picture identification for visitors may be, but is not restricted to, the following valid documents:

(1) Driver's license with picture,

(2) Department of Motor Vehicles identification card with picture,

(3) Picture passport,

(4) Armed forces identification card with picture,

(5) Picture identification cards issued by the United States Department of Justice—Immigration and Naturalization Service, or

(6) Picture identification issued by the Mexican Consulate.

(d) Minors may be allowed to visit an inmate subject to the restrictions of section 3173.1. If the accompanying adult is not the parent or legal guardian of the minor, a notarized written consent shall be required from a person with legal custody of the minor, authorizing the minor to visit while accompanied by a designated adult.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 4570.5 and 5054, Penal Code.

HISTORY:

1. Amendment of subsections (h) and (p) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34). For prior history, see 78, No. 33, 78, No. 30; 78, No. 12; 77, No. 40; 77, No. 20, and 77, No. 9.
2. Amendment of subsection (m) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
3. Amendment of subsections (b), (g) and (k) filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 35).
4. Amendment of subsection (f) filed 8-27-82; effective thirtieth day thereafter (Register 82, No. 35).
5. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).
6. Editorial correction of printing errors in subsections (f), (g) and (h) (Register 92, No. 5).
7. New subsections (p) and (q) filed 2-11-98 as an emergency; operative 2-11-98 (Register 98, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-11-98 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 2-11-98 order transmitted to OAL 5-4-98 and filed 6-16-98 (Register 98, No. 25).
9. Change without regulatory effect amending subsection (f) filed 12-18-98 pursuant to section 100, Title 1, California Code of Regulations (Register 98, No. 51).
10. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
11. Change without regulatory effect amending Note filed 5-22-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 21).

3173.1. Visiting Restrictions with Minors.

(a) For inmates convicted of Penal Code (PC) Section(s) 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289 when the victim is a minor, visitation with the minor victim shall be prohibited, except as authorized by an order of the juvenile court pursuant to Welfare and Institutions Code Section 362.6. Visitation pursuant to such an order shall be limited to non-contact status.

(b) For inmates convicted of PC Section(s) 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289 when the victim is a minor, visitation with any minor who is not the victim of the crime shall be limited to non-contact status.

(c) For inmates convicted of PC Section(s) 269, 273a, 273ab, or 273d, visitation with the minor victim shall be limited to non-contact status.

(d) For inmates convicted of violating PC Section(s) 187, 269, 273a, 273ab, or 273d, when the victim is a minor, visitation with any other minor shall be limited to non-contact status except as authorized by the Institution Classification Committee.

(e) When an inmate has been arrested, but not convicted, of any crime involving a minor victim included in this Section, a classification committee shall determine whether all visitation with a minor(s) is to be limited to non-contact status.

Unless otherwise prohibited, the inmate's visiting status shall be unrestricted until a classification committee has done the following:

(1) Made a case-by-case determination whether the inmate poses a threat of harm to minor visitors in contact visitation.

(2) Considered the circumstances of the misconduct involving a minor victim in determining whether the inmate poses a threat of harm to minor visitors in contact visitation. In making its determination, the classification committee shall consider, but is not limited to, arrest reports, probation officer reports, court transcripts, parole revocation transcripts.

(f) If a classification committee, when making a decision regarding the visiting status of an inmate described in (e) above, determines that the inmate will pose a threat of harm to minor visitors in contact visitation, it will order all the inmate's visitation with minors be restricted to non-contact visiting status.

(g) If an inmate disagrees with the decision of a classification committee, the inmate may file an inmate grievance via the CDC Form 602 appeal process as outlined in sections 3084.1 through 3085.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; and Section 362.6, Welfare and Institutions Code.

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
2. Repealer and new section and amendment of Note filed 12-5-2005 as an emergency; operative 12-5-2005 (Register 2005, No. 49). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 5-15-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-5-2005 order, including amendment of subsections (f) and (g), transmitted to OAL 4-24-2006 and filed 6-6-2006 (Register 2006, No. 23).

3173.2. Searches and Inspections.

(a) Any person coming onto the property of an institution/facility shall be subject to inspection as necessary to ensure institution/facility security including prevention of the introduction of contraband. Inspections may include a search of the visitor's person, personal property and vehicle(s) when there is reasonable suspicion to believe the visitor is attempting to introduce or remove contraband or unauthorized items or substances into, or out of, the institution/facility.

(b) Visitors shall not be forcibly searched unless institution/facility officials possess a court issued warrant to conduct the search, or are being detained for unlawful actions or activities in accordance with section 3292.

(c) Visitors shall be required to submit to contraband and/or metal detection device(s), and a thorough search of all personal

items, including inspection of a wheelchair, implant, prosthesis or assistive device, prior to being allowed to visit with an inmate.

(d) Visitors with medically implanted or prosthetic devices who cannot clear the metal detection device and/or visitors who require the use of a wheelchair or other assistive devices for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist. The letter must confirm the mobility impairment, and/or the nature of the medically implanted prosthetic device and its specific location in/on the body, and the need for any assistive device. The authorization letter shall be renewed every two years.

(e) Visitors who require the use of a wheelchair shall temporarily transfer to a designated institution/facility wheelchair, when available, while visiting staff conduct an inspection of the visitor's wheelchair. Visitors who present a letter signed by their physician that confirms the need for using a battery powered or custom designed wheelchair shall be exempt from the requirement of transferring from their personal wheelchair. In such cases, the visitor shall permit an inspection of the personal wheelchair and allow a hand held metal detection device to be used.

(f) Except as provided in subsection (b), if the search of any visitor's person, property or vehicle exceeds that which is normally required for all visitors, the visitor shall be informed in writing of the reason for the search and the name of the official ordering the search. Consent shall be obtained from the visitor prior to the search.

(g) A visitor who refuses to be searched shall be denied visiting for that day.

(1) The inmate and the visitor who refused to be searched shall be notified in writing as described in section 3176(a)(3).

(2) Future visits may be conditioned upon the visitor's willingness to submit to a search prior to each visit for as long as institution/facility officials have reasonable suspicion to believe that the visitor will attempt to introduce contraband or unauthorized substances into the institution/facility.

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

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
2. Amendment of subsections (a) and (g)(2) filed 4-7-2008; operative 5-7-2008 (Register 2008, No. 15).

3174. Standards of Dress for Inmate Visitors.

(a) Visitors are expected to dress appropriately and maintain a standard of conduct during visiting that is not offensive to others. Consistent with the goal of making visiting a safe, positive, constructive time for families and staff, the following standards shall apply:

(1) Visitors shall remain fully clothed at all times in the visiting room.

(2) Appropriate attire includes undergarments; a dress or blouse/shirt with skirt/pants/or shorts; and shoes or sandals.

(3) For security reasons, no brassiere will have metal underwires.

(b) Prohibited attire consists of:

(1) Clothing that resembles state-issued inmate clothing (blue denim or blue chambray shirts and blue denim pants);

(2) Clothing that resembles law enforcement or military-type clothing, including rain gear;

(3) Clothing or garments that:

(A) Expose the breast/chest area, genitals or buttocks;

(B) By design, the manner worn, or due to the absence of, excessively allows the anatomical detail of body parts or midriff to be clearly viewed;

(C) Are sheer, transparent or excessively tight;

(D) Expose more than two inches above the knee, including slits when standing.

(E) Undergarments shall be worn beneath translucent clothing, under all circumstances.

(4) Clothing or accessories displaying obscene or offensive language, drawings or objects.

(5) Gloves, head coverings (except clear, see-through rain gear), and readily removable wigs or hairpieces. The institution head or designee may grant an exception for a visitor to wear gloves, head coverings, and/or readily removable hairpieces or wigs, based upon verification of need. Written approval shall be required prior to visiting and subject to staff inspection during any visit. The institution head or designee may also grant a general exception allowing visitors to wear gloves and head coverings based upon weather conditions at the institution/facility.

(6) Any other clothing, garment or accessory when worn in a manner that would be prohibited in (b)(1) through (5) above.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of subsection (d) filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment of subsection (e) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. Amendment filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
4. Amendment of subsection (e) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
5. Amendment of subsection (e) filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 35).
6. New subsection (f) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
7. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).
8. New subsections (e)(1)–(2) and amendment of Note filed 2-27-95 as an emergency; operative 5-30-95 (Register 95, No. 9). A Certificate of Compliance must be transmitted to OAL by 11-6-95 or emergency language will be repealed by operation of law on the following day.
9. New subsections (e)(1)–(2) and amendment of Note refiled 11-7-95 as an emergency; operative 11-7-95 (Register 95, No. 45). A Certificate of Compliance must be transmitted to OAL by 4-14-96 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of History 9 (Register 96, No. 21).
11. Repealer of subsections (e)(1) and (e)(2) and reinstatement of Note as it existed prior to emergency amendment filed 5-30-95 pursuant to Government Code section 11349.6(d) (Register 96, No. 21).
12. New subsections (e)(1) and (e)(2) and amendment of Note filed 6-7-96 as an emergency; operative 6-7-96 (Register 96, No. 23). A Certificate of Compliance must be transmitted to OAL by 10-7-96 or emergency language will be repealed by operation of law on the following day.
13. Editorial correction of subsection (e)(2) (Register 96, No. 40).
14. Change without regulatory effect amending Note filed 10-1-96 pursuant to section 100, Title 1, California Code of Regulations (Register 96, No. 40).
15. Certificate of Compliance as to 6-7-96 order transmitted to OAL 10-3-96 and filed 11-18-96 (Register 96, No. 47).
16. Editorial correction of History 9 (Register 99, No. 4).
17. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3175. Standards of Conduct for Inmates and Their Visitors.

(a) Inmates and visitors shall comply with all laws, regulations, and institution/facility procedures. Any violation may result in denial, termination, suspension, restriction, or revocation, of visiting as described in section 3176.

(b) Accompanying adults shall ensure that minors remain under their constant control and supervision.

(c) Nursing mothers shall be discreet and covered when breastfeeding their child in the visiting area. Failure to do so shall result in termination of visiting for that day.

(d) Inmates and their visitors may hold hands.

(e) At the beginning and end of each visit, inmates and their visitors may briefly embrace and/or kiss.

(f) An inmate may hold his or her minor children. Inmates may also hold minor children accompanied by an adult.

(g) Except as provided in this section, no other bodily contact shall be permitted.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of subsections (h) and (i) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Amendment of subsection (g)(1) filed 2-7-83 as an emergency; effective upon filing (Register 83, No. 7).
4. Order of Repeal of 2-7-83 emergency order filed 2-10-83 by OAL pursuant to Government Code section 11349.6 (Register 83, No. 7).
5. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3176. Denial, Restriction, Suspension, Termination or Revocation of Visits and Exclusion of a Person.

The terms ''approve,'' ''disapprove'' ''deny,'' ''restrict,'' ''suspend,'' ''terminate,'' ''revoke,'' and ''reinstate'' as used in this article apply to actions which may be taken by the institution head or designee for the administration of visiting. The director or institution head may, for cause, exclude a person from entering institutions/facilities of the Department. All such actions are subject to the provisions set forth in this article.

(a) The official in charge of visiting may deny an approved visitor access to an institution/facility, terminate, or restrict a visit in progress for the following reasons:

(1) The visitor appears to be under the influence of alcohol, drugs or other substance to the extent that his or her presence in the institution/facility would pose an undue threat to his or her safety or the safety of others, or to the security of the institution/facility.

(2) The visitor does not provide the identification and/or documentation required as set forth in these regulations.

(3) The visitor refuses to submit to a search and inspection of his/her person or vehicles and property brought onto the institution/facility grounds.

(A) Visitors who refuse to submit to an unclothed body search, where probable cause exists, shall have their visiting privileges denied for that day. Future visits may be conditioned upon the visitor's willingness to submit to an unclothed body search prior to being allowed to visit. Such searches may be repeated on subsequent visits for as long as institution/facility officials have probable cause to believe that the visitor will attempt to introduce contraband or unauthorized substances or items into the institution/facility.

(B) The willingness or unwillingness of the visitor to submit to a search shall not affect conditions or restrictions placed on an inmate's visiting privileges by a disciplinary or classification committee unless the inmate is found in a subsequent disciplinary hearing to have been a conspirator to smuggle contraband into or out of the institution/facility.

(4) Conduct in violation of institution/facility procedures, including excessive physical contact, refusal to follow staff instructions, disruption of the visiting/processing area, destruction/alteration of visiting documents, or any other behavior that would constitute a misdemeanor or felony or repetition of less serious violations and disregard for a warning about such violations.

(5) The visitor is not appropriately dressed.

(6) The visitor is under 18 years of age and the conditions prescribed in section 3173(b) have not been met.

(7) The visitor has a medically implanted or prosthetic device, cannot clear the contraband or metal detection devices, and does not provide the written verification required in section 3173.2(d).

(8) The visitor requires the use of a wheelchair or other assistive device(s) for mobility impairment, but does not provide the written verification as required in section 3173.2(e), or refuses to temporarily transfer to a designated institution/facility wheelchair while the visitor's personal wheelchair is being inspected.

(9) The maximum capacity of the visiting area has been reached and to allow others to visit it is necessary to terminate the visits of those persons who have been visiting for the longest period of time. Exceptions shall include, but are not limited to the following:

(A) Excessive Distance: The visitor has traveled a distance of 250 miles or more, and has not visited within the last 30 days. This exception applies to two consecutive days of visiting.

(B) Weddings: When an inmate and the visitor's marriage ceremony occurred on that day.

(C) Disabled: A disabled visitor who must rely on special transportation to the institution/facility.

(D) Family Emergencies: When death, serious illness or injury occurs to an inmate's immediate family as defined in Section 3000. Clergy or approved visitors may visit the inmate to offer condolences or inform the inmate of the occurrence.

(E) Infrequent Visits: When the visitor has not visited the inmate in the last six months.

(10) When the overcrowding situation persists, visits of those remaining will be terminated as necessary.

(b) Written notification shall be provided to the visitor when action is taken by the official in charge of visiting to deny, terminate or restrict a visit. The written notification shall contain information instructing the visitor how to appeal the action as outlined in section 3179.

(c) The institution head or designee may revoke or suspend an approved visitor's future visits for a specified period of time for the following reasons:

(1) Information, which would have resulted in disapproval of visits in section 3172.1, becomes known after approval to visit has been granted.

(2) The visitor has been involved in a serious violation or multiple less serious violations of CDC regulations.

(d) The ranking custody officer on duty or the official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a serious rules violation or for classification on an order for placement in administrative segregation. Subsequent disciplinary or classification committee action will supersede any such temporary action.

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

HISTORY:

1. Editorial correction of printing error in subsection (c) (Register 92, No. 5).
2. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
3. Amendment of subsection (a)(9)(D) filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).

3176.1. Visitor Violation Process.

Any person seeking entry into an institution/facility for the purpose of visiting an inmate shall be subject to all applicable laws, rules and regulations. Any person violating a law, rule or regulation while visiting shall be subject to warning, termination, suspension, and/or revocation of their visiting privileges as described below:

(a) Warning. Visitors may be verbally warned about violations of applicable law, rules, regulations or of local procedures gov-

erning visits. When a verbal warning achieves corrective action, a written report of the misconduct or warning is not necessary.

(b) Termination. When verbal warnings and/or restrictions fail to achieve compliance, or fail to deter conduct by a visitor that if committed by an inmate would constitute a serious rules violation, the visit shall be terminated and documented in writing.

(c) Suspension up to six months. For serious or repeated violations of the rules, regulations, or procedures, and/or upon belief of the visitor's involvement in a criminal act and pending the outcome of an investigation, the official in charge of visiting may impose a suspension of the visitor's access to the visiting program for up to 6 months. The length of suspension shall be commensurate with the seriousness of the violation.

(d) Suspension up to 12 months. The institution head or designee may impose a suspension of visiting for up to 12 months when a visitor is involved in criminal activity on institution/facility property, which constitutes a misdemeanor.

(e) Suspension up to 24 months. The director or designee may impose a suspension of visiting privileges up to 24 months when a visitor is involved in criminal activity on institution/facility property, which constitutes a felony.

(f) Revocation. Subsequent discovery of information that would have resulted in disapproval or disqualifying conduct are grounds for revocation of the previously granted permission to visit an inmate.

(g) The visitor and the inmate shall be notified in writing of all formal warnings, terminations, suspensions and revocations. The notice shall clearly state the reason for the action and length of time any sanction will apply. The notification shall also include the signature of the official taking the action and advise the visitor of the right to appeal in accordance with section 3179. The notification shall be provided to the visitor at the time of the action or mailed to the visitor's last known address within five working days of the action.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3176.2. Violation of State Law on Institution/Facility Property.

Any violation of state law, misdemeanor, or felony committed on institution/facility grounds or property by a visitor may be referred to prosecuting authorities.

(a) Upon determination by the official in charge of visiting that a violation of state law has occurred, the visitor's access to the visiting program shall be suspended pending investigation, prosecution, and service of any sentence by the court.

(1) If the individual is not prosecuted, or upon completion of any court ordered sentence, approval to visit shall be reconsidered upon the visitor's written request.

(2) If a court finds the individual not guilty, a prior approval to visit shall be reinstated upon written request of the visitor.

(b) Regardless of the outcome of any referral to prosecuting authorities, future visits are subject to restrictions as provided in section 3176.1.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3176.3. Exclusion of a Person from Institutions/Facilities.

(a) The term ''exclusion'' as used in this article describes an administrative action by the director or institution head to bar, for cause, a person from entering institutions/facilities of the department, when that person would otherwise be permitted to enter. The director may delegate the authority for exclusion no lower than the rank of deputy director. The institution head may delegate the exclusion authority not lower than the chief deputy warden. Any person, including employees of the department, attorneys, attorney representatives, representatives of the news media, and delivery persons, may be excluded. The exclusion of a person is effected by issuance of an exclusion order.

(b) Exclusion orders shall be issued only when the director or institution head determines one or more of the following:

(1) The person's presence in the institution/facility presents a serious threat to security.

(2) The person is charged with a felony.

(3) The person is under investigation for a felony committed on institution/facility property.

(4) The person's purpose for entering an institution/facility is no longer valid or has been lawfully terminated.

(5) The person has committed any offense described in subsection 3178(s)(3) for which exclusion is an appropriate penalty.

(c) A temporary exclusion may be ordered pending investigation and/or verification of the cause for exclusion.

(d) The director or designee may exclude a person from any or all institutions/facilities. An institution head or designee may issue an order to exclude a person only from the institution/facility within his/her jurisdiction.

(e) When the institution head's exclusion order affects an inmate's attorney, or when the matter may have department wide significance, an immediate telephone report will be made to the director. In all instances of exclusion a written report will be made to the director or designee within two working days of the effective date of the order.

(f) The person excluded shall be provided with written notification of the action taken. The notification shall advise the person that, upon request, a meeting with the official who ordered the exclusion may be arranged at the convenience of both parties, and that he/she may bring other persons to the meeting, including an attorney, and any information or evidence to support his/her position. Following the meeting, the person shall be provided the official's written decision within 20 working days.

(1) If the exclusion is modified to permit the person's entry only under special conditions, the reasons shall be given.

(2) If an institution head ordered the exclusion, the person shall also be informed that the decision may be appealed to the director.

(3) A copy of the letter to the person shall be forwarded to the director or designee and a copy shall be retained in the institution/facility files.

(4) If the exclusion letter is rescinded in full, notice of the rescission will be given in writing to the person, with a copy to the director or designee.

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

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
2. Change without regulatory effect amending subsection (b)(5) filed 3-27-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 13).

3176.4. Restriction, Revocation or Suspension of an Inmate's Visits.

(a) Designated staff, not below the rank of correctional lieutenant or parole agent II, may temporarily impose non-contact visiting restrictions as a necessary security measure for an inmate who is pending a serious disciplinary hearing for the distribution and/or possession/control of a controlled substance, possession of money or other dangerous contraband that has been introduced into the institution/facility, or for other violations related to visiting.

(b) Pursuant to section 3314, a hearing officer conducting an administrative rules violation hearing may restrict an inmate's

visiting privileges for up to 30 days when the inmate is found guilty of visiting related misconduct.

(c) Upon a finding of guilt of a drug related offense, as described in subsections 3323(c)(7) and/or 3323(d)(6), the official conducting a disciplinary hearing, shall suspend and restrict an inmate's visiting privileges pursuant to subsections 3315(f)(5)(H) and 3315(f)(5)(I).

(d) Pursuant to section 3315, the official conducting a disciplinary hearing may suspend or restrict an inmate's visiting privileges for up to 90 days, when the inmate is found guilty of any of the following serious rule violations:

(1) Possession of $5.00 or more without authorization.

(2) Visiting related violations presenting a threat as described in section 3315(a)(2).

(3) Serious or repeated violations of visiting regulations or procedures.

(e) Suspension and or restriction of visiting may be imposed by a classification committee for a specific period of time when there is substantial reason(s) to believe that the inmate poses a threat to the security of the institution/facility and or safety of persons.

(1) Separate from the disciplinary authority of the senior hearing officer as provided in section 3315, a classification committee may suspend and restrict the visiting privileges of an inmate found guilty of multiple visiting related violations as described in section 3176.4(d). The committee may impose the following suspensions and restrictions:

(A) Suspension of visiting privileges for up to 90 days, to be followed by non-contact visiting for up to 180 days for any second offense which occurs within two years from the date of a previous offense.

(B) Suspension of visiting privileges for up to 180 days, to be followed by non-contact visiting for up to 180 days for any third offense which occurs within two years from the date of a first offense.

(2) A classification committee may impose a loss of visits for 180 days, to be followed by non-contact visits for 180 days, for escape or attempted escape when the inmate is found guilty by a disciplinary hearing officer or court.

(f) When the inmate's visiting privilege status has been modified or changed, the inmate shall be responsible for promptly notifying his or her visitor(s) of the action taken.

(g) Any suspensions under this section shall not apply to attorney visits including visits by attorney representatives.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2086, 2772, 2790, 4502, 4535, 4571, 4573, 4573.5, 4573.6 and 5054, Penal Code; and *In re French*, 106 Cal.App.3d 74 (1980).

HISTORY:

1. New section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3177. Family Visiting (Overnight).

Institution heads shall maintain family visiting policies and procedures. Family visits are extended overnight visits, provided for eligible inmates and their immediate family members as defined in Section 3000, commensurate with institution security, space availability, and pursuant to these regulations. Each institution shall provide all necessary accommodations, except for food, at no cost to the inmates and their visitors. Institutions shall require eligible inmates to purchase all food for the family visit through the institution family visiting coordinator. Each institution family visiting menu shall provide a balanced variety of nutritional selections. At all CDC conservation camps, the visitors shall be required to bring all food for the visit.

Only those immediate family members as defined in Section 3000, including registered domestic partners, are authorized for family visits.

(a) When a bona fide and verified foster relationship exists between an inmate and another person, by virtue of being raised in the same foster family, the person may be approved for family visiting with the prior approval of the institution head or designee.

(b) Family visiting is a privilege. Eligibility for family visiting shall be limited by the assignment of the inmate to a qualifying work/training incentive group as outlined in section 3044.

(1) Family visits shall not be permitted for inmates convicted of a violent offense involving a minor or family member or any sex offense, which includes but is not limited to the following Penal Code sections: 187 (when the victim is a family member as defined in Section 3000 or minor); 192 (when the victim is a family member or minor); 243.4; 261; 261.5, 262; 264.1; 266c; 266j; 273a; 273d; 273.5; 273.6; 285; 286; 288; 288a; 288.2; 288.5; 289; 289.5; 311.1; 311.2; 311.3; 311.4; 313.1; 314; or 647.6.

(A) Inmates may be prohibited from family visiting where substantial documented evidence or information of the misconduct described in section 3177(b)(1) exists, without a criminal conviction. The evidence or information appropriate for the purpose of this regulation shall include rule violation reports as well as the standard described in section 3173.1.

(B) Family visiting shall be restricted as necessary to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations, pursuant to section 3170.

(2) Family visits shall not be permitted for inmates who are in any of the following categories: sentenced to life without the possibility of parole; sentenced to life, without a parole date established by the Board of Prison Terms; designated Close A or Close B custody; designated a condemned inmate; assigned to a reception center; assigned to an administrative segregation unit; assigned to a security housing unit; designated "C" status; guilty of one or more Division A or Division B offense(s) within the last 12 months; or guilty of narcotics distribution while incarcerated in a state prison.

(3) Family visits shall be permitted only in CDC institutions and conservation camps.

(c) Unescorted minors of the inmate's immediate family shall not participate in family visits. Exceptions include an inmate's legal spouse, the inmate's children or legal stepchildren and the inmate's own brothers or sisters when the institution head or designee approves such unchaperoned visits.

(d) Inmates shall not be eligible for a family visit while any action that restricts, suspends, or denies their contact with a visitor or visitors during regular visiting is in effect. Family visits may be revoked or suspended without such action affecting an inmate's eligibility for contact or non-contact visits.

(e) Each inmate shall be subject to disciplinary action, which may include suspension or exclusion from participation in the family visiting program, for any willful damage of the unit and/or furnishings or for failure to maintain the cleanliness of the family visiting program unit.

(f) Visitors failing to report to the visitor processing area by 11:00 a.m. without the notification and approval of the family visiting coordinator are subject to cancellation of the visit and suspension of family visiting program privileges for six months.

(g) Inmates with a disability requiring an accommodation for family visits shall give 72 hours notice of any request for accommodation.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 297.5, Family Code; and Section 5054, Penal Code.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment of subsection (c) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. Amendment of subsection (c)(4) and new subsection (c)(13) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).

4. Amendment of subsection (c)(11)(C) filed 4-18-80; effective thirtieth day thereafter (Register 80, No 16).
5. Amendment of subsection (c)(10)(C) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
6. Amendment of subsections (c)(11)(B) and (c)(12) filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 35).
7. Amendment of subsection (c)(3) filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
8. Change without regulatory effect amending subsection (c)(9)(C) filed 9-26-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 39).
9. New subsections (c)(11)(D) and (E) and subsection relettering filed 2-11-98 as an emergency; operative 2-11-98 (Register 98, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-11-98 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 2-11-98 order transmitted to OAL 5-4-98 and filed 6-16-98 (Register 98, No. 25).
11. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).
12. Change without regulatory effect amending subsection (b)(1) filed 12-4-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 49).
13. Amendment of first two paragraphs, subsection (b)(1) and Note filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).

3178. Attorney Visitations and Consultation.

(a) The provisions of this section apply to any attorney or legal service organization as identified in section 3141(c)(8) authorized to practice law in California, another state, or the District of Columbia.

(b) A private consultation between an inmate and his or her attorney or attorney representative is known as an attorney visit. Attorney visits shall be conducted in a confidential area specified by the institution/facility. Attorney visiting shall normally be accommodated during the institution/facility regularly scheduled visiting days and hours. Where regular visiting is scheduled on both weekdays and weekends, the scheduling preference will be on weekdays because of the personnel and resources needed for the greater volume of weekend visits by friends and relatives.

(1) When an institution/facility visiting schedule only provide(s) for visiting on weekends an attorney visit shall be scheduled during normal weekday business hours upon written request of the attorney or attorney representative.

(2) The institution head or the official in charge of visiting has the discretion to authorize a contact attorney visit for an inmate on non-contact visiting status.

(3) If an attorney, or attorney representative, does not desire private accommodations, the attorney or attorney representative may visit the inmate on any scheduled visiting day and shall be provided the same accommodations including the schedule, as a regular visitor.

(c) An attorney or court may designate other persons to act on their behalf as attorney representatives.

(1) Attorney representatives must be one of the following:

(A) A private investigator licensed by any state and sponsored by the attorney or appointed by the court.

(B) An investigator who is employed by a government agency, public agency or public institution.

(C) A law student sponsored by the attorney.

(D) A legal para-professional sponsored by the attorney or appointed by the court.

(E) An employee of an attorney, legitimate legal service organization, or licensed private investigator who is sponsored by the attorney or licensed private investigator.

(2) Personnel retained by an attorney or attorney representative, including, but not limited to certified sign language interpreters, certified language interpreters and court reporters may accompany the attorney or attorney representative during the private consultation and are required to provide the information requested in (c)(3) below. Licensed mental or medical health care professionals may also serve as attorney representatives and do not have to be accompanied by the attorney.

(3) The designation shall be in writing and signed by the attorney and/or judge, and shall contain the following:

(A) The designee's name and position of employment or title.

(B) The designee's date of birth, driver's license and social security number.

(C) Certification, in the form of a license that the representative is a licensed private investigator retained by the attorney or appointed by the court; or valid identification that the investigator is employed by a government agency, public agency, or public institution; or a letter in the form of a declaration, that the attorney representative is being sponsored by the attorney and that the attorney accepts responsibility for all actions taken by the attorney representative.

(D) The name and CDC number of the inmate(s) to be visited.

(E) The designation shall be presented by the representative at the time of their visit and shall be subject to verification by institution/facility staff.

(4) Attorney representatives shall be afforded the same accommodations and services and are subject to the same rules and regulations, as an attorney providing all other requirements of this article are met.

(d) An attorney who wishes to consult in person with an inmate shall contact the institution/facility at which the inmate is housed. The request shall be made by calling or writing (including via facsimile) the staff designated (usually the litigation coordinator) in the institution/facility operational supplement. In order to obtain approval/clearance, the attorney shall provide the following personal and professional information in writing (including via facsimile): name; mailing address; date of birth, valid driver's license or state-issued identification card number; proof of current registry and good standing with a governing bar association; and indication of the jurisdiction(s) licensed to practice law. Requesting attorneys must also report any prior felony convictions, explain any prior suspension or exclusion from a correctional facility and declare one or more of the following:

(1) They are the inmate's attorney either by appointment by the court or at the inmate's request;

(2) They have been requested by a judge to interview a named inmate for purposes of possible appointment as counsel by the same court;

(3) They are requesting to visit an inmate who may be a witness directly relevant to a legal process, purpose, or proceeding;

(4) They are seeking to interview a named inmate, at the request of the inmate, for the purpose of representation of the inmate in a legal process, for a legal purpose or in a legal proceeding.

(5) They have been requested by a third party to consult with the inmate when the inmate cannot do so because of a medical condition, disability, or other circumstance.

(e) Any false statement or deliberate misrepresentation of facts specific to the information requested in subsection (d) above shall be grounds for denying the request and/or cause for subsequent suspension or exclusion from all institutions/facilities administered by the department.

(f) Upon receipt of the information specified in (d) above, a California Law Enforcement Telecommunications System check of the attorney through the Department of Justice and verification of the attorney's credential through the governing state bar will be conducted. Once the clearance and state bar verification have been obtained and approved, the attorney shall be contacted to schedule the initial in-person visit with the specified inmate(s). Attorneys and attorney representatives must report any change in personal or professional information, arrest history and declarations made in subsections (c) and (d) above to retain their approval/clearance.

(g) While five days notice to schedule an attorney visit is requested an approved attorney or approved attorney representative shall provide the institution/facility with no less than two business days notice to schedule a private consultation with an inmate. In an emergency, appointment requests may be cleared through the institution head or designee.

(h) Upon arrival at the institution/facility, the approved attorney shall be processed into the institution/facility in the same manner and under the same restrictions as regular visitors. Attorneys shall also be required to present their state bar card or other similar documentation that the attorney is currently registered in good standing with a state bar association.

(i) To follow-up on information obtained during a private consultation with an inmate, attorneys or attorney representatives may request to visit inmates other than those already formally represented. Such requests shall be considered subject to reasonable operational limitations. If the request imposes an unreasonable burden on staffing or unduly disrupts an institutional function, e.g., interferes with count or feeding, it will be deemed unreasonable and the request will be denied.

(j) When there is cause to believe an attorney or a legal service organization is abusing the privilege of private consultation with the inmate, the institution head is authorized to:

(1) Require proof that the inmate and attorney are involved in active litigation or have a legitimate legal reason for contact.

(2) Initiate an investigation of the facts and circumstances of the situation.

(k) An attorney request for the deposition of an inmate shall be made in writing to the institution head. The request shall include:

(1) The name and CDC number of the inmate.

(2) The name and other identifying information of the court reporter.

(3) The specific date and time requested for taking the deposition.

(*l*) Not more than two attorneys or attorney representatives may visit privately with an inmate or witness at the same time. Exceptions may be authorized by the official in charge of visiting commensurate with space and staff availability.

(m) Conversations between an inmate and an attorney and/or attorney representative shall not be listened to or monitored, except for that visual observation by staff, which is necessary for the safety and security of the institution/facility.

(n) All items, including legal documents permitted into the security area, shall be inspected for contraband and/or unauthorized items or substances. The inmate may retain and take from the visiting area any legal documents given to him or her by the attorney or attorney representative, providing the inmate consents to staff examination of the documents for contraband or unauthorized items or substances.

(1) Staff may open and inspect but shall not read any part of written or printed materials without the expressed consent of the attorney/attorney representative and inmate.

(2) Any and all items including written and printed material that an inmate and an attorney wish to exchange during the visit must be presented to the official in charge of visiting for inspection before it is brought into the visiting area. The purpose of this inspection is to ensure the contents pose no threat to the security or safety of the institution/facility, including the introduction of unauthorized drugs, controlled substances, and contraband as defined in section 3006.

(3) If the inmate does not consent to an inspection of the contents of a document given to the inmate by the attorney/attorney representative, it shall be returned to the attorney/attorney representative.

(o) After proper inspection, written and printed material may be exchanged. The attorney or attorney representative may retain and take from the visiting area and from the institution/facility any legal written or printed documents given to them by the inmate and not otherwise prohibited by law or these regulations.

(p) An attorney or attorney representative may be permitted, with the inmate's consent, to audio record the inmate's interview.

(1) The institution/facility shall make audio recording equipment available for such use. The interviewer may use personal recording equipment providing the equipment can be thoroughly inspected by staff before entry into the institution/facility.

(2) The attorney or attorney representative must provide a factory sealed audiotape/compact disc(s).

(q) The institution head or designee may authorize video recording of inmate interviews, with the inmate's consent.

(1) Video recording equipment provided by the attorney shall be thoroughly inspected by staff before entry into the institution/facility and searched for contraband.

(2) If the attorney's or attorney representative's video equipment cannot be thoroughly searched without an undue risk of damage, the equipment shall be permitted only if the attorney or attorney representative agrees to pay for staff to escort and control the equipment while inside the institution/facility. The pay for such staff escorts shall be at the state established hourly wage, including rates for overtime when necessary.

(3) The attorney or attorney representative must provide factory sealed videotape(s).

(r) Attorneys shall not be permitted to attend or participate in any conference or committee meeting of staff and the inmate concerned, except as may be authorized in these regulations.

(s) Administrative action may be taken by the institution/facility head or designee to restrict, where cause exists, the confidential privileges, including confidential visiting, mail and/or telephone privileges, and/or normal visiting privileges afforded an attorney or attorney representative based upon the schedule contained in this section:

(1) A written warning notifying the attorney or attorney representative that the offender's confidential legal privileges are subject to modification/suspension and that the offender will be subject to exclusion for a minimum of six months. Written warnings are appropriate for minor infraction or violations of the institution/facility regulations, i.e., violations that cannot be prosecuted as either a misdemeanor or felony.

(2) Modification, suspension, or exclusion of visiting privileges for a period of at least six months shall occur in the event that the written warning above fails to deter or correct the offending behavior.

(3) Committing an act that jeopardizes the life of a person, violates the security of the facility, constitutes a misdemeanor or a felony, or is a reoccurrence of previous violations shall result in a one-year to lifetime exclusion depending on the severity of the offense in question. Exclusions shall be made in accordance with section 3176.3 and the appeal process in section 3179.

(t) The director or designee shall be notified in writing within 48 hours when administrative action is taken to restrict visiting privileges of an attorney or attorney representative.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code; and *Procunier* v. *Martinez,* 94 S. Ct. 1800 (1974).

HISTORY:

1. Amendment filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Repealer and new section filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
3. Amendment filed 8-23-82; effective thirtieth day thereafter (Register 82, No. 28).
4. Change without regulatory effect amending subsection(a) filed 1-12-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 3).

5. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3179. Appeals Relating to Visiting.

(a) Inmates, and approved inmate visitors, and visiting applicants may appeal in writing department policies, staff decisions, and institution/facility procedures relating to visiting.

(1) Inmates shall use the established inmate appeal procedures as provided in section(s) 3084 through 3085.

(2) All appeals by approved inmate visitors and visiting applicants related to visiting shall be submitted to the institution head.

(b) Visitor appeals related to institution/facility procedures or staff decisions shall be addressed to the institution head. A written response shall be provided within 15 working days from receipt of the appeal. If dissatisfied with the institution/facility response or action, the appellant may refer their appeal, with a copy of the institution/facility decision, to the director or designee.

(c) Appeals related to visiting shall be addressed to the director. A written response to appeals addressed to the director shall be provided within 20 working days from the date of receipt.

(d) All subsequent decisions made, as the result of an appeal and the reasons for the decisions shall be documented with a copy to the appellant and/or inmate. Visiting privileges shall be promptly approved or restored when an investigation concludes that no violation of rules, regulations, or procedures took place.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Change without regulatory effect renumbering former section 3182 to section 3179 filed 6-28-95 pursuant to section 100, Title 1, California Code of Regulations (Register 95, No. 26).
2. Repealer and new section filed 2-18-2003; operative 3-20-2003 (Register 2003, No. 8).

3182. Minimum Visiting Days and Hours.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code. *In re French,* 164 Cal. Rptr. 800 (1980).

HISTORY:

1. New section filed 1-13-93 as an emergency; operative 1-13-93 (Register 93, No. 3). A Certificate of Compliance must be transmitted to OAL 5-13-93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-21-93 as an emergency; operative 5-21-93 (Register 93, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-20-93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-21-93 order transmitted to OAL 9-14-93; disapproved by OAL on 10-13-93 (Register 93, No. 42).
4. New section refiled 10-14-93 as an emergency; operative 10-14-93 (Register 93, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-11-94 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction adding History 2 (Register 93, No. 42).
6. New section refiled 3-9-94; operative 3-9-94 (Register 94, No. 10).
7. Change without regulatory effect renumbering former section 3182 to Section 3179 filed 6-28-95 pursuant to Section 100, Title 1, California Code of Regulations (Register 95, No. 26).

Article 8. Tobacco

3180. General Policy.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 308a and 5054, Penal Code.

HISTORY:

1. Amendment filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
2. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
3. Repealer filed 2-6-90; operative 3-8-90 (Register 90, No. 6).

3181. Quantity.

1. Repealer of article 8 and section filed 10-29-90; operative 11-28-90 (Register 91, No. 6).

3187. Smoking Policy.

(a) The terms below are defined for the purposes of this section:

(1) Smoke or Smoking means the inhaling, exhaling, burning, or carrying of any lit cigarette, cigar, pipe, or smoking paraphernalia used for consuming the smoke of tobacco or any other burning product.

(2) Use means the use of any tobacco product.

(3) Residential Space means the private living areas of staff. Residential Space does not include the living areas of inmates or family visiting areas. Residential space includes, but is not limited to, residential areas at institutions, correctional training academies, and conservation camps.

(4) Facility means any building, areas of any building, or group of buildings owned, leased, or utilized by the Department. This shall include, but not be limited to, institutions, conservation camps, community correctional facility, and reentry furlough, and restitution centers.

(b) No person shall smoke within 20 feet of any operative window of, entrance/exit to, or within the interior of any state owned or state occupied building, with the following exceptions:

(1) Residential spaces of staff excluding correctional training academies, Bachelor Officer Quarters (BOQ) at conservation camps, and designated non-smoking housing on institutional grounds. For these excluded areas, smoking will be permitted for staff in designated areas at designated times.

(2) In areas designated by each institution head for the purpose of approved inmate religious ceremonies as specified.

(c) In addition to (b), no person shall smoke in any area that may pose a safety or security risk, e.g., within any fire hazardous areas.

(d) Signs shall be posted at entrances of all areas designated no smoking and, as necessary, any other outside areas of a facility not designated for smoking, along with a citation of the authority requiring such prohibition.

(e) No person shall smoke in any vehicle that is state-owned or -leased by the state.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5030.1 and 5054, Penal Code; Sections 7596–7598 and 19994.30–19994.32, Government Code.

HISTORY:

1. Renumbering of former section 3188 to new section 3187, including amendment of section and Note, filed 7-7-2005 as an emergency; operative 7-7-2005 (Register 2005, No. 27). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 12-14-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-7-2005 order transmitted to OAL 12-13-2005 and filed 1-26-2005 (Register 2006, No. 4).

3188. Tobacco Products.

(a) The terms below are defined for the purposes of this section:

(1) Advertise means the display or posting of any poster, sign, or other written or visual material that serves to communicate commercial information or images to the public.

(2) Tobacco product means any product that contains tobacco, the prepared leaves of any plant belonging to the nicotiana family, which shall include, but not be limited to, cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco, tobacco substitutes, smoking paraphernalia, and all other items developed or processed for the primary purpose of facilitating the use or possession of tobacco or tobacco related products as well as packaging material. Packaging material includes, but is not limited to, snuff or cigarette containers.

(b) No tobacco product shall be advertised in any department-owned or -occupied facility with the exception of advertisements contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, bought, or distributed within a facility.

(c) Staff shall not use or possess tobacco products in the presence of inmates. No person shall possess or use tobacco products on the grounds of any institution/facility that houses or detains inmates, under the jurisdiction of the Department, except for the following:

(1) The use of tobacco products may be departmentally approved in inmate religious ceremonies.

(2) Tobacco products for personal use off facility grounds are permitted when secured in a locked private vehicle.

(3) Tobacco products for personal use are permitted in residential spaces of staff where inmates are not present. Use of tobacco products in residential space at correctional training academies, and in BOQ's at conservation camps, will be permitted only in designated areas with designated times to be determined by local operational procedures.

(4) Tobacco cessation products such as a patch, inhaler, or lozenges are permitted for use by staff, and must be for immediate personal use only.

(d) On July 1, 2005 and thereafter, smoking, possession, or use of tobacco products by inmates under the jurisdiction of the Department, or any other persons where inmates are housed or detained, except as provided in (c), is prohibited and tobacco products will be considered contraband in accordance with section 3006.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5030.1 and 5054, Penal Code; Section 19994.35, Government Code.

HISTORY:

1. New section filed 8-18-94 as an emergency; operative 8-18-94 (Register 94, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-16-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-18-94 order, including amendment of subsections (b) and (d), and amendment of Note transmitted to OAL 12-16-94 and filed 1-26-95 (Register 95, No. 4).
3. Editorial correction of Reference cite (Register 95, No. 32).
4. Amendment of section and Note filed 1-14-97 as an emergency pursuant to Penal Code section 5058(e); operative 1-14-97 (Register 97, No. 3). A Certificate of Compliance must be transmitted to OAL by 6-23-97 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-14-97 order transmitted to OAL 4-22-97 and filed 5-27-97 (Register 97, No. 22).
6. Amendment of subsection (a)(3) filed 12-1-98 as an emergency; operative 12-1-98 (Register 98, No. 49). Pursuant to Penal Code 5058(e), a Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-1-98 order transmitted to OAL 5-7-99 and filed 6-4-99 (Register 99, No. 23).
8. Renumbering of former section 3188 to new section 3187 and renumbering of former section 3189 to section 3188, including amendment of section and Note, filed 7-7-2005 as an emergency; operative 7-7-2005 (Register 2005, No. 27). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 12-14-2005 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 7-7-2005 order transmitted to OAL 12-13-2005 and filed 1-26-2005 (Register 2006, No. 4).

3189. Inmate Violations and Cessation Assistance.

(a) Inmates violating the provisions of sections 3187 and/or 3188 on July 1, 2005 and thereafter shall be subject to the inmate disciplinary methods, administrative and serious rule violation provisions of sections 3312, 3314 and 3315.

(b) Tobacco use cessation assistance may include, but is not limited to the following:

(1) Tobacco use cessation classes,

(2) Distribution of printed tobacco cessation material.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5030.1 and 5054, Penal Code.

HISTORY:

1. New section filed 8-18-94 as an emergency; operative 8-18-94 (Register 94, No. 33). A Certificate of Compliance must be transmitted to OAL by 12-16-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-18-94 order transmitted to OAL 12-16-94 and filed 1-26-95 (Register 95, No. 4).
3. Amendment of section heading and new subsection (c) filed 12-1-98 as an emergency; operative 12-1-98 (Register 98, No. 49). Pursuant to Penal Code 5058(e), a Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-1-98 order transmitted to OAL 5-7-99 and filed 6-4-99 (Register 99, No. 23).
5. Renumbering of former section 3189 to section 3188 and new section 3189 filed 7-7-2005 as an emergency; operative 7-7-2005 (Register 2005, No. 27). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 12-14-2005 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 7-7-2005 order transmitted to OAL 12-13-2005 and filed 1-26-2005 (Register 2006, No. 4).

Article 9. Personal Property

3190. General Policy.

(a) Inmates shall be permitted to possess in their quarters/living area, state-issued property items, and authorized personal property items based upon privileges in section 3044 and/or assigned security level and/or institution mission, and subject to disciplinary provisions in sections 3314 and 3315.

(b) Specific items of personal property shall be established by a consensus of individual facilities within each of five mission-based regions of the Division of Adult Institutions. A list of allowable property shall be developed and updated by each mission-based region no more frequently than twice yearly. Local exceptions to the individual mission-based property lists shall also be identified. All changes to the Authorized Personal Property Schedule shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11364).

The following five mission-based regional property lists are incorporated by reference:

(1) Authorized Personal Property Schedule—Reception Centers (Rev. 2/1/08). This personal property schedule applies to the following facilities:

(A) California Institution for Men—Reception Center and Administrative Segregation Unit Housing only.

(B) Deuel Vocational Institution—Reception Center and Administrative Segregation Unit Housing only.

(C) North Kern State Prison—Reception Center and Administrative Segregation Unit Housing only.

(D) Richard J. Donovan Correctional Facility—Reception Center and Administrative Segregation Unit Housing only.

(E) San Quentin State Prison—Reception Center and Administrative Segregation Unit Housing only.

(F) Wasco State Prison—Reception Center and Administrative Segregation Unit Housing only.

(G) California Correctional Institution—Reception Center Housing only.

(H) California State Prison, Los Angeles County—Reception Center Housing only.

(I) High Desert State Prison—Reception Center Housing only.

(2) Authorized Personal Property Schedule—Levels I, II, III, Male Conservation Camps and Community Correctional Facilities (Rev. 2/1/08). This personal property schedule applies to the following facilities:

(A) Avenal State Prison—Levels I and II General Population and Administrative Segregation Unit Housing.

(B) California Correctional Center—Levels I, II, III General Population, Administrative Segregation Unit Housing and Male Conservation Camps.

(C) California Institution for Men—Level I General Population Housing only.

(D) California Rehabilitation Center—Levels I and II General Population and Administrative Segregation Unit Housing.

(E) California State Prison, Solano—Levels II and III General Population and Administrative Segregation Unit Housing.

(F) Correctional Training Facility—Levels, I, II, and III General Population and Administrative Segregation Unit Housing.

(G) Chuckawalla Valley State Prison—Levels I and II General Population and Administrative Segregation Unit Housing.

(H) Deuel Vocational Institution—Levels I and II General Population Housing only.

(I) Folsom State Prison—Levels I, II, and III General Population and Administrative Segregation Unit Housing.

(J) Ironwood State Prison—Levels I and II General Population and Administrative Segregation Unit Housing.

(K) Pleasant Valley State Prison—Level I General Population Housing only.

(L) California Substance Abuse Treatment Facility and State Prison, Corcoran—Levels I and II General Population Housing only.

(M) North Kern State Prison—Levels I and II General Population Housing only.

(N) Richard J. Donovan Correctional Facility—Levels I and III General Population Housing only.

(O) San Quentin State Prison—Levels I and II General Population Housing only.

(P) Sierra Conservation Center—Levels I, II and III General Population, Administrative Segregation Unit Housing and Male Conservation Camps.

(Q) Wasco State Prison—Levels I and III General Population Housing only.

(R) Calipatria State Prison—Level I General Population Housing only.

(S) Centinela State Prison—Level I General Population Housing only.

(T) California Men's Colony—Levels I and II General Population Housing only.

(U) California Medical Facility—Levels I and II General Population Housing only.

(V) California State Prison, Los Angeles County—Level I General Population Housing only.

(W) Mule Creek State Prison—Levels I and II General Population Housing only.

(X) California Correctional Institution—Levels I and II General Population Housing only.

(Y) Corcoran State Prison—Level I General Population Housing only.

(Z) High Desert State Prison—Levels I and II General Population Housing only.

(AA) California State Prison, Sacramento—Levels I and II General Population Housing only.

(BB) Pelican Bay State Prison—Level I General Population Housing only.

(CC) Kern Valley State Prison—Level I General Population Housing only.

(DD) Salinas Valley State Prison—Levels I and II General Population Housing only.

(3) Authorized Personal Property Schedule—Levels III and IV (Rev. 2/1/08). This personal property schedule applies to the following facilities:

(A) Calipatria State Prison—Level IV General Population and Administrative Segregation Unit Housing only.

(B) Centinela State Prison—Level III General Population and Administrative Segregation Unit Housing only.

(C) California Men's Colony—Level III General Population and Administrative Segregation Unit Housing only.

(D) California Medical Facility—Level III General Population and Administrative Segregation Unit Housing only.

(E) California State Prison, Los Angeles County—Level IV General Population and Administrative Segregation Unit Housing only.

(F) Mule Creek State Prison—Levels III and IV General Population and Administrative Segregation Unit Housing only.

(G) Pleasant Valley State Prison—Levels III and IV General Population and Administrative Segregation Unit Housing only.

(H) California Substance Abuse Treatment Facility and State Prison, Corcoran—Levels III and IV General Population and Administrative Segregation Unit Housing only.

(I) Richard J. Donovan Correctional Facility—Level IV General Population Housing only.

(4) Authorized Personal Property Schedule—High Security and Transitional Housing (Rev. 2/1/08). This personal property schedule applies to the following facilities:

(A) California Correctional Institution—Level IV General Population, Administrative Segregation Unit and Security Housing Unit Housing only.

(B) Corcoran State Prison—Levels III and IV General Population, Administrative Segregation Unit and Security Housing Unit Housing only.

(C) High Desert State Prison—Levels III and IV General Population, and Administrative Segregation Unit Housing only.

(D) Kern Valley State Prison—Level IV General Population and Administrative Segregation Unit Housing only.

(E) Pelican Bay State Prison—Level IV General Population, Administrative Segregation Unit and Security Housing Unit Housing only.

(F) California State Prison, Sacramento—Level IV General Population and Administrative Segregation Unit Housing only.

(G) Salinas Valley State Prison—Levels III and IV General Population and Administrative Segregation Unit Housing only.

(5) Authorized Personal Property Schedule—Female Offenders Programs (Rev. 2/1/08). This personal property schedule applies to the following facilities:

(A) Central California Women's Facility—Levels I, II, III and IV General Population, Administrative Segregation Unit and Reception Center Housing.

(B) California Institution for Women—Levels I, II and III General Population, Administrative Segregation Unit and Reception Center Housing.

(C) Valley State Prison for Women—Levels I, II, III and IV General Population, Reception Center, Administrative Segregation Unit and Security Housing Unit Housing.

Facilities are subject to the Authorized Personal Property Schedule exemptions that have been granted to particular institutions and which are identified at the beginning of each of the property lists referenced in subsections 3190(b)(1) through 3190(b)(5) above.

(c) The combined volume of state-issued and allowable personal property items shall not exceed six cubic feet, except as specifically allowed in these regulations.

(d) Upon an inmate's transfer between institutions of the department, the sending institution shall inventory the inmate's property and, pursuant to section 3191 ensure the proper disposition of property not allowed at the receiving institution as a result of privilege group, and/or security level, and/or institution mission changes.

(e) Inmates may acquire authorized personal property packages based upon their privilege group, pursuant to section 3044. Personal property packages shall be ordered by inmates or their correspondents via a departmentally-approved vendor. All packages shall be shipped to the inmate's institution/facility by the departmentally-approved vendor in a sealed container.

(f) Inmates may possess allowable food and personal care/hygiene items, and personal clothing in their quarters/living areas, subject to section 3190(a), unless otherwise prohibited by these regulations. The total volume of canteen merchandise retained in possession of an inmate shall be pursuant to section 3094. Inmates shall be required to maintain their purchase receipt to verify purchases until such items are expended.

(g) Inmates shall be restricted to only clear (see-through) personal care/hygiene items encased in clear containers or tubing based upon industry availability. An exemption shall be authorized by the institution's health care manager or chief medical officer when an exemption to the clear item and/or clear case requirement is deemed medically necessary by a physician. Such exemption shall not exceed one (1) year. If the condition persists, the inmate shall submit another exemption request.

(h) Inmates shall only be permitted to possess state-issued clothing and authorized personal clothing subject to section 3190(a).

(i) Inmates shall be allowed special purchases of authorized personal property items from locally-approved special purchase vendors (except as provided for publications (including books and subscriptions to periodicals) in Sections 3190(i)(2) and 3190(i)(7) below). The institution head or designated staff shall ensure approved vendor catalogs and order forms are available to inmates who qualify. Special purchases shall only include the following:

(1) Health Care Appliances, subject to prescription by health care staff and approval by designated custody staff, shall be excluded from the six cubic foot limitation of section 3190(c).

(2) Legal Material, including legal reference material, books, and legal pads not available in the institution canteen, pursuant to section 3161. There shall be no ''Approved Vendor Lists'' for any legal publications. Inmates may receive legal publications from any publisher, book store or book distributor that does mail order business.

(3) Correspondence Courses, subject to approval by supervisor of correctional education programs and designated custody staff.

(4) Religious Items, subject to approval by institutional chaplain and designated custody staff.

(5) Handicraft Material, subject to approval by handicraft manager and designated custody staff.

(6) Entertainment Appliances and Musical Instruments, subject to qualifying privilege group and/or security level/institution mission.

(7) All publications, including books and subscriptions to periodicals, subject to section 3006. There shall be no ''Approved Vendor Lists'' for any publications. Inmates may receive publications from any publisher, book store or book distributor that does mail order business.

(j) Inmates may be allowed to possess appliances and one musical instrument as follows:

(1) Inmates assigned to Privilege Groups A or B may possess up to three approved appliances in their quarters/living area and shall not exceed the six cubic feet maximum limitation. One musical instrument with case not exceeding 46''x 24''x 12'' may be substituted as one of the three appliances.

(2) Inmates assigned to Privilege Group C may not possess entertainment appliances and/or a musical instrument. Inmates placed on Privilege Group C pursuant to a classification committee action, shall be required to dispose of the entertainment appliance(s) and/or musical instrument in accordance with section 3191(c).

(3) Inmates assigned to Security Housing Unit/Psychiatric Services Unit (SHU/PSU) may possess or acquire one television or one radio or one television/radio combination unit. Inmates assigned to Privilege Group D shall not possess a musical instrument.

(4) Inmates assigned to Privilege Group U shall not possess any appliances or musical instruments.

(5) Inmates housed at conservation camps shall not possess a television or television/radio combination.

(k) All appliances shall be sealed by staff by covering exterior pieces of the appliance that may be used to access the interior of the appliance with hotglue.

(l) Inmates who break or tamper with the seal of an appliance(s) may be subject to disciplinary action and confiscation of the item.

(m) Inmates ordering new or replacement appliances shall be required to purchase clear-case appliances, as they become available.

(n) Inmate correspondents shall be permitted to purchase appliances for qualifying inmates, including health care and entertainment appliances and/or musical instruments from a locally-approved vendor, pursuant to section 3044.

(o) In addition to the six cubic feet limitation of authorized property, inmates who participate in institution academic or vocational educational programs shall be allowed to possess, in their quarters/living area, state provided textbooks/materials necessary to complete their education requirements. In accordance with section 3011, inmates who do not return state textbooks in serviceable condition, may be charged a replacement fee, as determined by the supervisor of correctional education programs.

(p) Inmates may acquire and possess correspondence course materials, including textbooks, in their quarters/living area as approved by the supervisor of correctional education programs and designated custody staff pursuant to limitations in section 3190(b). Correspondence courses requiring tools, construction kits, or other materials that may pose a threat to the institution's security or the safety of persons shall not be allowed.

(q) The amount charged an inmate for a special purchase or personal property package shall include normal taxes and a 10% service charge based upon the purchase price. Service charges shall be deposited in the inmate welfare fund. Exception: The 10% service charge shall not be added to purchases of health care appliances, correspondence courses, nonfiction books, religious items, and legal materials.

(r) Inmates shall not possess any membership cards, identification cards, or service-type cards other than those issued by the department.

(s) All allowable inmate property shall be inventoried, documented, and stored for inmates transferred Out-to-Medical or Out-to-Court, or placed in segregated housing, a Correctional Treatment Center, or an Outpatient Housing Unit, until the inmate returns.

(t) Privilege Group A or B inmates placed in administrative segregation (AD SEG) shall have their property inventoried and stored pending the outcome of Initial Classification Committee review. If the inmate is released to general population and maintains their Privilege Group A or B assignment, all allowable property shall be returned. If the inmate is retained in AD SEG, all allowable property as determined by current departmental regulations shall be reissued to the inmate. If the inmate received a SHU term, the inmate shall be required to dispose of unallowable

property due to privilege group and/or security level and/or institution mission change in accordance with section 3191(c).

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 2601, 5006 and 5054, Penal Code; *In re Alcala*, Marin County Superior Court, No. 117925, December 20, 1984 and *Armstrong* v. *Davis Court Ordered Remedial Plan,* Amended January 3, 2001; *In re Armstrong*, N.D. Cal, No. C 94–02307, March 20, 1998.

HISTORY:

1. Amendment filed 3-6-85 as an emergency; effective upon filing (Register 85, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-85. For prior history, see Register 84, No. 47.
2. Order of Repeal of 3-6-85 emergency order filed 8-1-85 by OAL pursuant to Government Code Section 11349.6(b) (Register 85, No. 31).
3. Amendment filed 8-2-85 as an emergency; effective upon filing (Register 85, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-2-85.
4. Certificate of Compliance transmitted to OAL 12-2-85 and filed 12-23-85 (Register 85, No. 52).
5. Amendment of subsections (a) and (c), new subsection (d), relocation and amendment of former section 3092(a) to section 3190(e), new subsections (e)(1)–(7), relocation and amendment of former section 3092(b) to section 3190(f) and amendment of Note filed 12-30-2003 as an emergency; operative 1-1-2004 (Register 2004, No. 1). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 6-9-2004 or emergency language will be repealed by operation of law on the following day.
6. Withdrawal and repeal of 12-30-2003 amendments filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 9-24-2004 or emergency language will be repealed by operation of law on the following day.
7. Amendment of section and Note, including relocation and amendment of former subsection 3092(a) to section 3190(h), relocation and amendment of former section 3044(g)(4)(G) to section 3190(i)(3) and relocation and amendment of former section 3092(b) to section 3190(p), filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).
9. Amendment of section and Note filed 8-13-2007 as an emergency; operative 8-13-2007 (Register 2007, No. 33). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 1-22-2008 or emergency language will be repealed by operation of law on the following day.
10. Amendment of section and Note refiled 1-23-2008 as an emergency; operative 1-23-2008 (Register 2008, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-22-2008 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 1-23-2008 order, including further amendment of section and Note, transmitted to OAL 4-22-2008 and filed 6-4-2008 (Register 2008, No. 23).

3191. Property Registration and Disposition.

(a) Registerable personal property must be registered under the inmate's name and number in the institution's inmate property records.

(b) Inmates are required upon request by institution staff to properly account for all registerable personal property registered in their name and number. An inmate's failure to possess or properly account for personal property registered in the inmate's name and number, or possession of property which is not registered in the inmate's name and number will be cause for disciplinary action, including confiscation of the unregistered property. In all instances of confiscation, every reasonable effort will be made to determine the rightful owner of the property. The property will be returned to its rightful owner unless, as the result of disciplinary action for misuse of property, the inmate's approval to possess the property is rescinded.

(c) Inmate personal property not meeting the criteria in section 3190, shall be disposed of in accordance with this section. An inmate shall select one of the methods listed in sections 3191(c)(1) through 3191(c)(5) below for disposing of non-allowable personal property which is unauthorized pursuant to subsection (b) and section 3190. If the inmate makes no selection or has insufficient funds, staff shall document that fact and determine the method of disposition. Property that is considered contraband pursuant to section 3006(a) or (c) shall be retained by staff as may be required by ongoing investigation or court order. Following the completion of all disciplinary, investigative, or court requirements, the contraband property shall be disposed of according to institutional/facility procedures.

(1) Mail the item to an address of an individual willing to accept the personal property, provided by the inmate, via USPS or common carrier at the inmate's expense. This option is not available for inmates with insufficient trust account funds.

(2) Return the item to the sender via USPS or common carrier at the inmate's expense. This option is not available for inmates with insufficient trust account funds.

(3) Donate the item to a charitable organization as designated by the institution/facility.

(4) Donate the item to the institution/facility.

(5) Render the item useless and dispose of it according to institution/facility procedures.

(d) Inmates shall not send personal property to any state agency or agent of the state. Failure to comply may result in disciplinary action, and confiscation and/or disposal of the property.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2601 and 5054, Penal Code.

HISTORY:

1. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
3. New subsection (c) and Note filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
4. Amendment of section and Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).
6. Amendment of subsection (c) and amendment of Note filed 8-13-2007 as an emergency; operative 8-13-2007 (Register 2007, No. 33). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 1-22-2008 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (c) and amendment of Note refiled 1-23-2008 as an emergency; operative 1-23-2008 (Register 2008, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-22-2008 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 1-23-2008 order, including further amendment of subsection (c), transmitted to OAL 4-22-2008 and filed 6-4-2008 (Register 2008, No. 23).

3192. Possession and Exchange.

An inmate's right to inherit, own, sell or convey real and/or personal property does not include the right to possess such property within the institutions/facilities of the department. An

inmate may not exchange, borrow, loan, give away or convey personal property to or from other inmates. Violation(s) of this rule may result in disciplinary action, and confiscation and/or disposal of the personal property.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code.

HISTORY:

1. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
2. Amendment of section and new Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3193. Liability.

(a) In permitting inmates to possess items of personal property while they are incarcerated, the department does not accept liability for the theft, loss, damage or destruction of such property resulting from the intentional or careless act or activities of any inmate. The department does not accept liability for the loss or destruction of personal property in the inmate's possession or control at the time of any willful act by the inmate, such as escape, which exposes such property to loss or theft before it can be recovered and controlled by staff.

(b) The department shall accept liability for the loss or destruction of inmate personal property when it is established that such loss or destruction results from employee action. Inmates shall utilize the inmate appeal process if unable to resolve a personal property claim pursuant to section 3084.1. Upon acceptance of liability, the department shall provide similar items of equal or greater value to the inmate when such items are available via donated property items consistent with sections 3084.7(e) and 3191(c). If donated items are not available, monetary compensation to the inmate for such loss shall not exceed either the dollar value assigned to the item or items at the time the inmate received authorization to possess the property; the cost of the item, verified by receipt; or the replacement value for the item or a similar item, as determined by the department. Staff recommendations to the Victim Compensation and Government Claims Board regarding monetary reimbursement will be made accordingly.

(c) The department shall not assume responsibility for property abandoned by an escapee until such time as the escape is discovered and the property is inventoried. Inventoried property shall be stored and final disposition of the property shall be pursuant to Penal Code 5062 and 5063.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2085, 2600, 2601, 5062 and 5063, Penal Code.

HISTORY:

1. New section filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
3. Amendment filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
4. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
5. Amendment of section and Note filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3194. Extradition Inmate Property.

(a) Inmates or parolees requiring extradition transport from any state or territory of the United States are personally responsible for the disposition of their personal property. Inmates shall arrange with the holding agency for the disposal or storage or mailing of personal property prior to being transported by California state agents. State agents shall not be responsible for personal property remaining at the sending agency/institution. At no time shall inmate personal property be checked onto airplanes or transported in the aircraft's baggage compartment. The only exception shall be wheelchairs or other health care appliances.

(b) Inmates extradited to the custody of the department shall not retain any property on their person except prescribed eyeglasses or health care appliances. Only authorized property that can fit into a 10'' x 12'' clasp envelope, including, but not limited to prescription medication, jewelry, wallet, watch, family pictures, or printed material, shall be allowed to be transported. Inmate property shall be inventoried, recorded, and secured in the agent's carry-on baggage or secured compartment in a transportation vehicle. Inmates may wear his/her own clothing and shoes if deemed appropriate for transport purposes by the assigned state agents.

(c) Inmates extradited or transferred from the department to other jurisdictions, states or territories of the United States may be allowed to retain all or a portion of their property as determined by the transporting extradition agent. In cases where the transportation of personal property is not permitted, inmates shall dispose of the property pursuant to subsection 3191(c)(3) through (5) or be provided the opportunity to select from the following options for the disposition of property:

(1) Inmates permanently transferring to the custody of another agency shall be provided the opportunity to send all property to an address of their choosing via USPS or common carrier at the inmate's expense.

(2) Indigent inmates permanently transferring to the custody of another agency may send their personal property to an individual willing to accept the personal property at the expense of the department.

(3) Inmates temporarily transferring out-to-court or other temporary transfers out-of-state shall have property stored at the institution/facility pending their return to custody, parole or discharge. Disposition of unclaimed property shall be in accordance with PC 5062, 5063 and 5064.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 5062, 5063 and 5064, Penal Code.

HISTORY:

1. New section filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

3195. Release Clothing.

Inmates scheduled for parole or awaiting discharge may receive a release clothing package via U.S. Postal Service or common carrier no earlier than 30 days prior to their scheduled parole or discharge date. Inmate release clothing packages, limited to one set of clothing, shall be retained in a secure location by the department until their release.

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

HISTORY:

1. New section filed 5-27-2004 as an emergency; operative 5-27-2004 (Register 2004, No. 22). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-27-2004 order transmitted to OAL 10-28-2004 and filed 12-14-2004 (Register 2004, No. 51).

Article 10. Inmate Privileges

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. New Article 10 (section 3195) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
2. Amendment of subsections (d)–(f) filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
3. Repealer of Article 10 (section 3195) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).

SUBCHAPTER 3. INMATE ACTIVITIES

3200. General Policy.

HISTORY:
1. Repealer filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

Article 1. Religious Program

3210. Establishment of Religious Programs.

(a) Institution heads shall make every reasonable effort to provide for the religious and spiritual welfare of all interested inmates, including, but not limited to, affording inmates a reasonable accommodation to attend a scheduled Religious Service if they are unable to do so due to conflicting work/education assignments. Reasonable accommodation may include, but is not limited to, modified work schedule, use of accrued time or allowable breaks, granting of a job/assignment change, changes of regular days off, etc. Use of reasonable accommodation shall in no way adversely impact an inmate's credit earning status.

(b) Depending upon the number of inmates of the various faiths, chaplains may be employed or their services may be accepted on a nonpaid volunteer basis. When feasible, separate space for services of the faith groups represented by a substantial number of inmates shall be provided. However, in some facilities, such as camps, it shall be necessary for the various faith groups to share such space as is available for religious services.

(c) Reasonable time and accommodation shall be allowed for religious services in keeping with facility security and other necessary institutional operations and activities. Insofar as possible, other facility activities shall be planned so as not to conflict with or disrupt scheduled religious services.

(d) A request for a religious service accommodation that requires a specific time, location and/or item(s) not otherwise authorized, will be referred to a Religious Review Committee (RRC) for review and consideration. The RRC shall be comprised of designated chaplains, and a correctional captain or their designee. Accommodation for religious services that are not granted, shall be for reason(s) which would impact facility/unit safety and security, and orderly day to day operations of the institution.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code; and Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.ss 2000cc, et seq.

HISTORY:
1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Editorial correction of NOTE filed 8-16-82 (Register 82, No. 34).
3. Amendment of article heading, section heading, text, and Note filed 11-1-93; operative 12-1-93 (Register 93, No. 45).
4. Amendment of section and Note filed 1-17-2006 as an emergency; operative 1-17-2006 (Register 2006, No. 3). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-26-2006 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-17-2006 order transmitted to OAL 6-22-2006 and filed 7-27-2006 (Register 2006, No. 30).

3211. Inmate Ministers.

(a) When a chaplain of a particular faith cannot be obtained to conduct services within a facility housing inmates of that faith, the institution head may at their discretion and subject to such controls reasonably required for facility security, designate a qualified inmate to minister to the religious needs of inmates for that specific faith. In determining the qualifications of an inmate to conduct such services, the institution head will, whenever possible, seek the advice and counsel of outside religious leaders of that faith.

(b) An inmate shall not be assigned as a minister on a full-time basis in lieu of a regular inmate work/training incentive program assignment, be considered as a state employee, or be paid by the state for their services.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code.

HISTORY:
1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Editorial correction of Note filed 8-16-82 (Register 82, No. 34).
3. Amendment of section heading, text, and Note filed 11-1-93; operative 12-1-93 (Register 93, No. 45).

3212. Scheduled Services.

Information received by chaplains when performing their duties shall be privileged except when the nondisclosure of such information to facility staff would jeopardize the safety of any person or the security of the facility.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code; and Sections 912, 917 and 1030–1034, Evidence Code.

HISTORY:
1. Amendment of section heading and text, and addition of Note filed 11-1-93; operative 12-1-93 (Register 93, No. 45).

3213. Stipulations Regarding Religious Artifacts, Sanctuaries, and Sacramental Wine.

(a) Prior written approval of the institution head or their designee shall be required for the following:

(1) For any person to bring sacramental wine or any religious artifact into a facility.

(2) For an inmate to be provided any religious artifact.

(3) For an inmate to wear or carry an approved religious artifact at any time other than during their regular religious or sweat events, or facility-approved special events.

(b) Medicine bags shall be constructed of soft leather or other natural material without a lining and shall not exceed 1-1/2 inches in diameter. The bag shall, in the presence of staff, either be closed with a drawstring or sewn shut in such a manner as to permit subsequent searches of the bag's contents by staff.

(c) All religious artifacts shall be subject to searches by staff.

(d) Sanctuaries, sweat lodges, and other areas designated for religious or spiritual use shall be subject to searches by staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5009 and 5054, Penal Code. Section 1996, Title 42, United States Code.

HISTORY:
1. Amendment of section heading, repealer of text, and new subsections (a)–(d) and Note filed 11-1-93; operative 12-1-93 (Register 93, No. 45).

Article 1.5. Inmate Marriages

3216. Marriages.

(a) Inmate marriages shall be permitted in accordance with the provisions of law and these regulations.

(b) The inmate's marriage request shall be processed by the inmate's caseworker or other staff person designated by the institution head who shall provide all necessary information to the office of the county clerk or clergyperson.

(c) Inmate marriages shall be solemnized at the institution/facility by an individual authorized to solemnize marriages, as designated in Family Code Sections 400 and 402.

(d) For the purpose of this section, a chaplain shall mean those persons defined in section 3000. Institution/facility chaplains may solemnize inmate marriages. Institution/facility chaplains, if designated, shall be required to process the request or facilitate a marriage. Institution/facility chaplains shall establish religious criteria to be met by the inmates and this criteria shall be provided by the chaplains to their supervisors.

(e) Attendance at a marriage ceremony shall be limited to the bride, groom, two inmate guests, the official solemnizing the ceremony, and ten non-inmate guests. Inmate guests may attend only if their Inmate Work Incentive Program schedules are not interrupted.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601(f) and 5054, Penal Code; and Sections 300, 350–359, 400–402, and 500, Family Code.

HISTORY:

1. New article 1.5 (section 3216) and section filed 1-11-99; operative 2-10-99 (Register 99, No. 3).

Article 2. Recreational and Physical Education Programs

3220. Recreational and Physical Education Program Participation.

(a) Interested inmates shall be provided an equal opportunity to participate in constructive recreational and physical education programs under safe and secure conditions, consistent with the inmate's custodial classification, work/training assignment, privilege group and security requirements.

(b) The recreation program may operate seven days a week with specific program, gymnasium and/or yard schedules established by the institution head. Notices of tournaments and special events shall be posted in locations accessible to all inmates.

(c) Employees shall not participate in inmate contests, except as a coach, instructor or official, unless authorized to do so by the institution head.

(d) Prizes and trophies may be purchased using inmate welfare funds and awarded to inmates participating in activities and contests. An award, prize, trophy or certificate of participation in a recreation or physical education event shall be delivered to the participant inmate as soon as possible following approval by the coordinator of the activity or event involved.

(e) Competition between outside public teams and inmate teams may be permitted only within the facility and under the direct supervision of staff.

(f) Inmates may voluntarily participate only in those contests, games, and/or athletic activities, which have been specifically authorized by the institution head or the institution head's designee.

(g) Inmate weight lifting programs and equipment shall not be permitted at departmental institution/facilities. Exceptions shall be permitted as specifically authorized by the director, in compliance with Penal Code Section 5010.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5010 and 5054, Penal Code.

HISTORY:

1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Amendment filed 6-29-93; operative 7-29-93 (Register 93, No. 27).
3. Amendment of subsection (b), renumbering and amendment of former section 3220.3 to new subsection 3220(f) and amendment of Note filed 6-30-95 as an emergency; operative 7-1-95 (Register 95, No. 26). A Certificate of Compliance must be transmitted to OAL by 12-7-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6-30-95 order transmitted to OAL 11-22-95 and filed 1-8-96 (Register 96, No. 2).
5. New subsection (g) filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-11-98 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 1-2-98 order transmitted to OAL 6-9-98 and filed 7-21-98 (Register 98, No. 30).
7. Amendment of article heading, section heading and subsections (a) and (d) filed 7-24-2002; operative 8-23-2002 (Register 2002, No. 30).

3220.1. Recreation and Physical Education Program Safety.

(a) Grudge fights, games, contests or other recreation or physical education activities, which involve unusual danger or potential for injury, are prohibited.

(b) Inmates shall not be allowed to participate in the boxing program without written medical clearance.

(c) Martial arts may be practiced only with specific approval from the institution head and under the direct supervision of staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3221 to section 3220.1 filed 6-29-93; operative 7-29-93 (Register 93, No. 27).
2. Designation of subsections (a)–(c), new subsections (d)–(e) and amendment of Note filed 6-30-95 as an emergency; operative 7-1-95 (Register 95, No. 26). A Certificate of Compliance must be transmitted to OAL by 12-7-95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-30-95 order transmitted to OAL 11-22-95 and filed 1-8-96 (Register 96, No. 2).
4. Repealer of subsections (d) and (e) and amendment of Note filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-11-98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-2-98 order transmitted to OAL 6-9-98 and filed 7-21-98 (Register 98, No. 30).
6. Amendment of section heading and subsection (a) filed 7-24-2002; operative 8-23-2002 (Register 2002, No. 30).

3220.2. Academic Standards.

All academic recreation, physical education and physical fitness training programs provided at departmental institutions/facilities shall be based upon curriculum frameworks adopted by the Board of Education. Lesson plans, competency testing, standards, course outlines, teacher/inmate enrollment ratios, instructional specialization and all related academic and educational requirements shall be in accordance with the appropriate curriculum framework.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 60200–60206, Education Code; section 5054, Penal Code.

HISTORY:

1. New section filed 7-24-2002; operative 8-23-2002 (Register 2002, No. 30). For prior history see Register 98, No. 30.

3220.3. Conservation Camp Programs.

Conservation camps shall provide recreation and physical education program opportunities for their respective inmate popula-

tions. These opportunities shall be compatible with camp operations, staffing and the geographic location of the camp.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. New section filed 7-24-2002; operative 8-23-2002 (Register 2002, No. 30). For prior history, see Register 96, No. 2.

3220.4. Movies/Videos for Inmate Viewing.

(a) Only movies/videos approved by the institution head or his/her designee (reviewer) may be scheduled for viewing by inmates.

(b) Only those movies/videos which have been given a rating of ''G,'' ''PG,'' or ''PG-13'' by the Motion Picture Association of America (MPAA) or that have been placed on the department's discretionary showing list may be considered for viewing. Movies/videos which have been given a rating of other than ''G,'' ''PG,'' or ''PG-13'' by the Motion Picture Association of America shall not be approved for general inmate viewing. Regardless of their rating or listing, movies/videos, which, in the opinion of the reviewer, glorify violence or sex, or are inflammatory to the climate of the facility shall not be shown.

(c) The selection or exclusion of a movie/video by a facility may be challenged by members of the public by writing to the director, appealed by inmates by following the appeal process as stated in section 3084.1 et seq., and grieved by staff by pursuing grievance procedures in accordance with their collective bargaining unit's contract and/or memorandum of understanding.

(d) At the discretion of the director, a movie/video review shall be done by the movie review committee, composed of staff named by the director. Movies may be submitted for consideration as follows:

(1) Movies/videos, which have not been rated, may be submitted to the director for the committee's consideration for general inmate viewing.

(2) Movies/videos which have an MPAA rating of other than ''G,'' ''PG,'' or ''PG-13,'' or have not been rated by the MPAA, may be submitted to the director by the facility reviewer or a contract vendor for the committee's consideration for specified limited inmate viewing purposes (e.g., education or contracted service vendor programs).

(3) Movies which are challenged by the public, appealed by inmates, and grieved by staff pursuant to subsection (c) of this section shall be reviewed by the committee at the director's discretion.

(e) The committee may determine a movie/video to be unacceptable for inmate viewing, acceptable for general inmate viewing, or acceptable for specified limited inmate viewing purposes.

(f) The committee will place movies/videos on a statewide ''discretionary showing list'' under the category of ''approved for all purposes,'' or under the category of ''approved for specified limited inmate viewing purposes'' (specifying the limited or special purpose for which the movie is being approved), or under the category of ''unacceptable for inmate viewing.'' A movie/video's placement on the list as approved will not require that it be shown by a facility.

NOTE: Authority cited: Sections 5058 and 10006(b), Penal Code. Reference: Sections 2601(c), 5054, and 10006(b), Penal Code.

HISTORY:
1. New section filed 6-29-93; operative 7-29-93 (Register 93, No. 27).
2. Amendment of newly designated subsections (a) and (b), new subsections (c)–(d)(4) and amendment of Note filed 6-28-96 as an emergency; operative 6-28-96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 1-6-97 or emergency language will be repealed by operation of law on the following day.
3. Amendment of newly designated subsections (a) and (b), new subsections (c)–(d)(4) and amendment of Note refiled 12-19-96 as an emergency; operative 12-19-96 (Register 96, No. 51). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 5-28-97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-19-96 order, including further amendment of section, transmitted to OAL 4-14-97 and filed 5-23-97 (Register 97, No. 21).

3220.5. State-Owned Television Sets.

(a) State-owned television sets provided for inmate viewing shall be moved only by designated staff.

(b) Except to change the channel to a scheduled program, television channel changes and receiver adjustments shall be made only by staff.

(c) The viewing schedule for each state-owned television set shall be determined under the supervision of staff by a vote of the inmates using the set. Program viewing schedules shall be displayed next to the television set and shall be removed or changed only by staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. New section filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3221. Safety.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Renumbering and amendment of former section 3221 to section 3220.1 filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3222. Physical Fitness.

HISTORY:
1. Renumbering and amendment of former section 3222 to section 3220.2 filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3223. Unauthorized Activity.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Renumbering and amendment of former section 3223 to section 3220.3 filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

Article 3. Inmate Councils, Committees, and Activity Groups

3230. Establishment of Inmate Advisory Councils.

(a) Each warden shall establish an inmate advisory council, which is representative of that facility's inmate ethnic groups. At the discretion of the warden, subcommittees of the council may also be established to represent subfacilities or specialized segments of the inmate population.

(1) Council members shall serve to advise and communicate with the warden and other staff those matters of common interest and concern to the inmate general population.

(2) The council shall operate only under the constitution and by-laws as prepared by the council's inmate representatives, with the advice and guidance of designated staff and approved by the warden.

(3) Local exceptions to this regulation may be permitted with the approval of the director.

(b) An inmate's eligibility for nomination, election and retention as an inmate advisory council representative shall be limited only by the inmate's ability to effectively function in that capacity as determined by the warden.

(1) Upon the inmate's request, that inmate shall be provided, in writing, the reasons for the determination of ineligibility.

(2) A disciplinary infraction shall not necessarily bar an inmate from serving as a council representative unless the infraction is determined by the warden to be detrimental to the council's effectiveness.

(3) A representative's misbehavior while conducting council business or acting under the guise of conducting council business shall be cause for disciplinary or other action.

(4) The membership of representatives or the activities of the entire council may be suspended when the warden determines that the representative or council presents a threat to facility security or the safety of persons, or that the representative's or council's actions are counterproductive to the best interest and welfare of the general inmate population. If a council's activities are suspended, the warden shall notify the general inmate population of that action and the reasons therefor.

(c) Only inmates shall nominate and elect inmate advisory council representatives.

(1) Each inmate shall have an equal vote in the election of their council representatives.

(2) When an election is by written ballot, the election shall be conducted under the direct supervision of staff who shall distribute and collect the ballots and tabulate the results.

(3) All written ballots shall be retained for 30 days after the close of the election.

(4) If it is determined that any coercion, duress, threats of reprisal or other irregularities were present in an election, the warden may declare the election invalid and require a new ballot.

(5) Only council representatives shall elect a temporary representative to fill a vacancy for up to a maximum of 30 days.

(d) Inmate advisory council representatives shall not, as a council representative, become involved with inmate appeals unless the matter affects the general inmate population and such involvement is authorized by the warden.

(1) No appeal concerning an employee shall be discussed by representatives with any employee below the level of correctional lieutenant.

(2) Representatives shall not attempt to influence the decisions of staff by threatening to seek review by a higher authority.

(3) Representatives shall not negotiate with nonsupervisory staff who do not have the authority to act on the specific matter.

(4) Representatives shall not attempt to directly enforce staff's compliance with any higher-level decisions.

(e) Each inmate advisory council shall maintain a permanent record of formal meetings, whether staff were present or not.

(1) The minutes of meetings shall contain the date and time of the meeting, names and titles of those present and absent, subjects discussed, decisions made and actions taken.

(2) Before being distributed, minutes of meetings and any other council material shall require the approval of the warden or designee.

(f) Inmate advisory council representatives may, through designated staff and with the approval of the wardens of both facilities, correspond and exchange copies of meeting agenda and minutes with councils at other department facilities. The warden denying such exchanges shall provide the originating council chairperson with written reasons for the denial.

(g) The inmate advisory council shall be provided, when available, adequate facilities, equipment and supplies to carry out its approved activities and functions.

(1) Each council shall be provided with the following:

(A) Office space and furniture.

(B) Access to a typewriter and duplicating equipment.

(C) Office supplies and stationery.

(D) Bulletin boards in locations frequented by the represented inmate population.

(E) Copies of Notices of Change to Director's Rules, Administrative Bulletins, and other nonconfidential directives and announcements which concern the general inmate population.

(2) A means for distributing approved council materials to the general inmate population shall be established. Wardens may permit such means to include the use of facility publications and radio systems.

(3) The council shall obtain staff's authorization before using any resources, which were not specifically provided for the council.

(h) A staff person at the level of a program administrator or higher shall be designated as the inmate advisory council coordinator.

(1) Facility Captains shall be directly involved in council activities within their respective programs and may delegate specific aspects of supervision, direction and responsibilities for council activities within their unit to subordinate unit supervisors.

(2) Other staff may, as deemed necessary by the warden, be involved with the council in resolving issues.

(3) The routine supervision and direction of council activities may be delegated to staff at the level of a correctional lieutenant or higher.

(4) Correctional lieutenants and sergeants in charge of inmate living areas on each watch shall work directly with council representatives on issues and concerns resolvable at their level of authority.

(i) The warden or their designate shall meet with the inmate advisory council representatives at least once each calendar month. Apart from the warden's meeting, coordinators shall also meet with council representatives at least once each calendar month.

(1) Proposed agenda items with a summary of the council's efforts to resolve the items at a lower level shall be submitted by the council to the warden and, when required by the coordinator, to the coordinator one week prior to their scheduled meeting.

(2) Emergency issues may be brought to the attention of the warden or coordinator without a prearranged agenda.

(3) The warden and staff delegated the authority to act on formal agenda items shall provide the council with a timely written response which shall indicate what action (including any referral and no action) was taken, the reasons for the action and, when applicable, the manner and approximate time of implementing the action.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 6-29-93; operative 7-29-93 (Register 93, No. 27).
2. Change without regulatory effect amending subsection (h)(1) filed 8-6-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 32).

3231. Special Inmate Committees.

An institution head may appoint committees of inmates or parolees representative of the inmate or parolee population to perform special services or act as a representative group for special purposes and under the conditions specified in the appointment document. Such committees, unless composed exclusively of inmate advisory council representatives, shall not be affiliated with a facility's inmate advisory council.

NOTE: Authority cited: Sections 5058 and 6252, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Editorial correction of Note filed 8-16-82 (Register 82, No. 34).
3. Amendment filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3232. Inmate Participation in Committees.

Inmate participation as a council representative or special committee member shall be voluntary. Each inmate who volunteers for such an assignment shall comply with all department and facility requirements governing such participation.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3233. Inmate Leisure Time Activity Groups.

Institution heads may permit the formation of inmate leisure time activity groups, which promote educational, social, cultural and recreational interests of participating inmates. Group activities, which violate or advocate violating the law, regulations, or local procedures are prohibited.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 6-29-93; operative 7-29-93 (Register 93, No. 27).

3234. Establishment of Inmate Leisure Time Activity Groups.

(a) Each institution head shall provide for the formation of inmate leisure time activity groups within the facility. No activity group shall be formed or operated without the written approval of the institution head or their designee.

(b) Inmates proposing to form an activity group shall submit a proposed plan of operation for the institution head's or designee's approval. The proposed plan of operation shall include the following:

(1) The proposed name of the group, which shall reflect the general nature and interest of the group.

(2) The purpose of the group with an explanation of the expected benefits to the inmate participants and to the facility, justifying the use of state resources to accommodate the group.

(3) Membership criteria. Membership to an activity group shall not be denied on the basis of an inmate's race, creed, color, age, national origin, ancestry, gender, marital status, disability, religious or political affiliation, sexual orientation, or on the inmate's inability or refusal to pay membership fees, dues or donations to the group.

(4) Frequency and type of meetings.

(5) Limitations on number of members.

(6) Outside affiliations.

(7) Structure of the group's governing body.

(8) Provision for annual update of bylaws for the institution head's or designee's approval.

(9) An agreement signed by an employee volunteer willing to serve as the group's sponsor. Only a permanent full-time employee shall serve as a group sponsor. Cosponsors may be required if the group cannot be controlled by a single volunteer.

(c) When the institution head or designee approves a group's proposed plan of operation, the plan shall constitute the group's bylaws and shall be so titled prior to distribution.

(1) Any change in bylaws shall require the institution head's or designee's written approval prior to implementation.

(2) Continuing operation of a group is contingent upon the institution head's or designee's annual review and reapproval of the bylaws.

(d) No activity group shall meet unless the group's sponsor or cosponsor is present for such meeting.

(e) Each approved group may be allowed one banquet per year subject to security considerations, availability of facilities and resources, and the group's ability to pay any additional costs incurred by the state.

(f) The institution head shall dispose of any undisbursed funds and property of a disbanded activity group and in determining the method of disposal shall consider all written requests by former group members and other interested persons.

(1) Funds shall be disbursed by either of the following methods:

(A) Deposited into the inmate welfare fund account.

(B) Donated to a recognized charitable organization.

(2) Property shall be disposed of by any one or more of the following methods:

(A) Placed on the inmate welfare fund property inventory.

(B) Donated to another inmate activity group.

(C) Sold to another inmate activity group. Proceeds of such sales shall be deposited into the inmate welfare fund account.

(D) Donated to a recognized nonprofit organization.

(E) Used for facility needs.

(g) The bylaws for any approved group shall be accessible to all inmates in the facility. A copy shall be given to any requesting member of the public.

NOTE: Authority cited: Sections 5058 and 6252, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
3. Editorial correction of Note filed 8-16-82 (Register 82, No. 34).
4. Repealer and new section heading, designation and amendment of subsection (a), new subsections (b)–(f)(2)(E), and redesignation and amendment of former subsection 3235(a) to new subsection (g) filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

3235. Termination of an Inmate Leisure Time Activity Group.

(a) The activities of a group may be temporarily suspended or terminated by the official in charge of the facility, if either of the following conditions exist:

(1) The group's activities threaten facility security or the safety of staff, inmates or the public.

(2) The group is violating these regulations, local procedures or its approved bylaws.

(b) After review and evaluation of the reason for such action, the institution head shall either allow the group to continue or order termination of the group.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
3. Editorial correction of Note filed 8-16-82 (Register 82, No. 34).
4. Editorial correction of printing error in subsection (d)(1) (Register 92, No. 5).
5. Amendment for section heading, redesignation of former subsection (a) to subsection 3234(g), repealer of subsections (b)–(d)(3), redesignation and amendment of subsections, and amendment of Note filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

3236. Attendance at Group Activities.

Attendance at a group's activities by inmates who are not members, by members who are not inmates, or by guests or spectators may be permitted if requested by the group's employee sponsor and approved by the institution head or designee. The number of such persons permitted to attend may be restricted for security reasons or if facility resources cannot accommodate the additional attendance.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Renumbering of former section 3236 to section 3237 and renumbering and amendment of former section 3237 to section 3236 filed 10-13-94; operative 11-14-94 (Register 94, No. 41). For prior history, see Register 81, No. 3.

3237. Inmate Membership in Outside Organizations.

(a) Inmates may obtain and retain membership in outside organizations and associations provided such membership does not threaten facility security or the safety of staff, inmates, or the public; and creates no financial burden on the state.

(b) An inmate's membership in an outside organization shall not entitle any member to conduct the organization's activities within a facility, or to represent inmate members in department or facility matters, except as specifically approved by the institution head or the director.

(c) Unless such an act would jeopardize facility security or safety of persons, inmate members of outside organizations shall be permitted to possess membership cards and to wear membership buttons and lapel pins of such organizations. The official denying such items shall provide the affected inmates with written notice of the reasons for the denial.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Renumbering of former section 3237 to section 3236 and renumbering and amendment of former section 3236 to section 3237 filed 10-13-94; operative 11-14-94 (Register 94, No. 41). For prior history, see Register 82, No. 29.

Article 4. Inmate Fund Raising Campaigns and the Inmate Welfare Fund

3240. Inmate Fund-Raising Campaigns.

(a) Institution heads may authorize for each approved inmate activity group up to three campaigns annually for one or more of the following:

(1) Generally recognized nonprofit charitable causes.

(2) General fund-raisers.

(b) Each approved inmate group may raise funds by soliciting inmate donations or selling approved products, commodities, or services to general population inmates.

(1) Only inmates shall be solicited for contributions unless the institution head approves solicitation of staff.

(2) Fund-raising activities shall be conducted only during inmate and staff sponsor off-duty time.

(c) No form of coercion shall be used on any inmate or parolee to participate in a campaign or fund-raiser, or to make a nonvoluntary donation.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Amendment of article heading, section heading and text filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

3240.1. Donations.

Inmates may with permission of the institution head make voluntary donations from their trust account funds for any approved reason or cause. Permission shall be denied if any of the following exist:

(a) There is evidence of coercion.

(b) The inmate's trust account balance is less than the amount of the proposed donation.

(c) The inmate is mentally incompetent.

(d) The proposed amount of the donation is less than one dollar.

(e) The reason or cause advocated could jeopardize facility security or the safety of persons.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Renumbering and amendment of former section 3241 to section 3240.1 filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

3240.2. Inmate Welfare Fund Processing Fees.

(a) Ten percent shall be deducted from inmate donations for deposit in the inmate welfare fund to offset trust office transaction processing costs.

(b) Monies collected from sales of products, commodities, or services shall be subject to the deduction based on gross sales.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. New section filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

3241. Donations.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
3. Renumbering of former section 3241 to section 3240.1 filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

Article 5. Institution Publications

3250. Inmate Publications.

(a) As used in this article, an inmate publication means any journal, magazine, bulletin, newsletter, newspaper, or other material published by inmates.

(b) Inmates may participate in the publication and distribution of an inmate publication only with the institution head's specific approval.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Repealer of section 3250 and renumbering and amendment of former section 3251 to section 3250 filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

3250.1. Material Prohibited from Inmate Publications.

(a) Inmate publications shall not contain material the institution head determines to be a threat to facility security or the safety of persons, or determines that it:

(1) Offends any race, gender, nationality, religious faith, or sexual preference.

(2) Is lewd, pornographic, sexually suggestive, libelous, has profane or vulgar terminology, or otherwise is prohibited pursuant to section 3006.

(3) Attacks any individual.

(4) Serves as a conveyance for individual complaints or substitute for the department's appeal process.

(b) The names or photographs of inmates or staff shall not be used without the individual's written permission.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code; *In re Williams* (1984) 159 C.A.3d 600, 205 Cal.Rptr. 903; *Bailey* v. *Loggins* (1982) 32 C.3d 907, 187 Cal.Rptr. 575; *Diaz et al.* v. *Watts* (1987) 189 Cal.App.3d 657, 234 Cal.Rptr. 334; and *Miller* v. *California* (1973) 413 U.S. 15, 93 S.Ct. 2607, rehg. den 414 U.S. 881, 94 S.Ct. 26.

HISTORY:
1. New section filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

2. Amendment of subsections (a), (a)(2), (a)(4) and (b) filed 6-6-96; operative 6-6-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 23).

3250.2. Inmate Publication Disclaimer and Editing Authority.

(a) Inmate publications shall include a disclaimer that the opinions expressed therein are the author's and do not necessarily represent the position of the facility or department.

(b) The institution head shall designate an administrative editor and a supervising editor who shall oversee the editorial correctness of the inmate publication and ensure compliance with relevant laws and regulations.

(c) The administrative editor shall be at the level of an associate warden or assistant regional parole administrator, public information officer, or administrative assistant.

(d) The supervising editor shall be an instructor in journalism or other qualified employee appointed by the institution head and shall approve or reject articles, illustrations, and layouts proposed for publication by the inmates.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

3250.3. Resolution of Inmate Publication Editing Disagreements.

Disagreements about language, content, or acceptability of a proposed article or edition shall be resolved as follows:

(a) Any unresolved disagreement between the supervising editor and inmate publication staff shall be referred to the administrative editor for resolution. The administrative editor shall render a decision, which may include reasonable editorial changes, within three working days.

(b) If unable to effect a satisfactory resolution, the administrative editor shall forward the material to the institution head who may either make a decision or transmit the matter to the assistant director, communications, for a decision, within three working days of receipt of the disputed material.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

3250.4. Termination of an Inmate Publication.

The termination of any inmate publication for other than the temporary suspension of publication during a lockdown or other declared emergency shall require the director's approval.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

3251. Participation.

HISTORY:

1. Renumbering and amendment of former section 3251 to section 3250 filed 6-23-93; operative 7-23-93 (Register 93, No. 26).

SUBCHAPTER 4. GENERAL INSTITUTION REGULATIONS

Article 1. Public Information and Community Relations

3260. Public Access to Facilities and Programs.

Correctional facilities and programs are operated at public expense for the protection of society. The public has a right and a duty to know how such facilities and programs are being conducted. It is the policy of the department to make known to the public, through the news media, through contact with public groups and individuals, and by making its public records available for review by interested persons, all relevant information pertaining to operations of the department and facilities. However, due consideration will be given to all factors which might threaten the safety of the facility in any way, or unnecessarily intrude upon the personal privacy of inmates and staff. The public must be given a true and accurate picture of department institutions and parole operations.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment of section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3260.1. Public Records Duplication Services.

The Department shall charge a requester a fee of 12 cents per page, plus postage, to duplicate and mail a public record as defined in the California Public Records Act, Government Code Sections 6250, et seq.

NOTE: Authority cited: Sections 5058, Penal Code. Reference: Sections 5054, Penal Code, and section 6250, et seq., Government Code.

HISTORY:

1. New section filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

3261. Moviemakers, Broadcasters, Writers.

HISTORY:

1. Renumbering and amendment of former section 3261 to section 3261.1 filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3261.1. Media Access to Facilities.

(a) Access to a department facility or contract facility for a news media representative, as defined in subsection 3261.5(a)(1), shall require prior approval of either the institution head or the Assistant Secretary of Communications or designee. Access to a department facility for a non-news media representative, as defined in subsection 3261.5(a)(2), shall require prior approval of both the institution head and the Assistant Secretary of Communications or their designees. For each request for access from a news media representative or a non-news media representative, the institution head or the Office of Public and Employee Communications shall provide an initial response back within two (2) working days. In order to deny an access request for a news media or a non-news media representative, the institution head shall secure advance authorization from the Secretary of the California Department of Corrections and Rehabilitation (CDCR) or designee.

(1) Facilities, on-duty staff, inmates or records under control of the department shall not be used in conjunction with film making, radio or television programs, or the writing of books, magazine articles or syndicated stories without prior approval of the Secretary of the CDCR or designee.

(2) Should any news media or non-news media representative(s) access to a facility constitute an immediate threat to safety

and security, or generate serious operational problems, the institution head or designee may impose limitations on or set conditions for such access.

(b) Except as provided by subsection 3261.5(b), news media and non-news media representatives within a facility shall be under the direct supervision of the facility's or regional Public Information Officer or their designee as determined by the institution head.

(c) News media and non-news media representatives shall not enter condemned units, the execution chamber, or any area currently affected by an emergency situation without approval of the Secretary of the CDCR or designee.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and sections 1798.20, 1798.30 and 1798.40–42, Civil Code.

HISTORY:

1. Renumbering and amendment of former section 3261 to section 3261.1 filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
3. Editorial correction of Reference cite (Register 95, No. 14).
4. Amendment filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3261.2. Authorized Release of Information.

(a) Only an employee designated by the institution head shall inform the media regarding a facility incident or newsworthy event.

(b) Except as provided by applicable federal and state law, no person shall disclose any protected health information that identifies an individual without a valid written authorization from the individual.

(c) Information pertaining to a Division of Juvenile Justice ward shall not be released to the media or the public, except as provided in subsection 3261.7(c)(3).

(d) Information derived from a person's Criminal Identification and Investigations Report shall not be provided to the media or to the public.

(e) Including the limitations of (c) and (d) above, the only inmate or parolee data which may be released without a valid written authorization from the inmate/parolee to the media or to the public includes the inmate's or parolee's:

(1) Name.

(2) Age.

(3) Birthplace.

(4) Place of previous residence.

(5) Commitment information obtained from their adult probation officer's report.

(6) Facility assignments and behavior.

(7) General state of health, given in short and non-medical terms such as good, poor, or stable.

(8) Cause of death.

(9) Sentencing and release actions.

(f) The only employee data which may be released to the media or to the public by other than the employee concerning their involvement in a facility incident or newsworthy event includes:

(1) Name.

(2) Civil service classification.

(3) Age.

(4) Work assignment.

(5) Length of service with the department and/or current division or unit.

(6) Past work assignments.

(7) Role or function in a newsworthy event.

(g) Information endangering an employee or concerning an employee who is a crime victim shall not be released to the media.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Sections 56.10, 1798.20, 1798.30 and 1798.40–42, Civil Code; Sections 6250–6276.48, Government Code; and Code of Federal Regulations, Title 45, Parts 160 and 164.

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
3. Amendment of section and Note filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3261.3. Notifying Media of Escapes.

(a) In the event of an actual or suspected escape, the facility or regional public information officer, or off-duty hours designee, shall notify radio and television stations and newspapers in the surrounding communities and the missing inmate's home community.

(1) The missing inmate's physical description, estimated time of disappearance and other pertinent details shall be provided.

(2) The media shall be informed of the facility's search efforts and cooperation with local law enforcement agencies.

(b) When available, the missing inmate's identification photograph or short escape bulletin shall be furnished to the notified television stations and newspapers. If a photograph or short escape bulletin are not available for distribution, the media shall be informed that one is posted at the facility's front entrance where they will be permitted to take a picture of it for their use.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3261.4. Media Inquiries.

(a) Media inquiries shall be given high priority; facts shall be gathered as quickly as possible and provided to the inquirer. If the requested facts are not known or are otherwise unavailable, the inquirer shall be so informed and the reasons therefore.

(b) No information developed to answer a media person's inquiry nor the fact that an inquiry was made shall be volunteered to another media person.

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

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
3. Amendment of subsection (a) filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3261.5. Routine Media Interviews.

(a) Definitions.

(1) ''News media representative'' means a journalist who works for, or is under contract to, a newspaper, magazine, wire service, book publisher, or radio or television program or station or who, through press passes issued by a governmental or police agency, or

through similar convincing means, can demonstrate that he or she is a bona fide journalist engaged in the gathering of information for distribution to the public.

(2) ''Non-news media representatives'' means individuals in the publishing and broadcasting media not included in subsection 3261.5(a)(1), and may include editorial researchers, freelance writers, authors of books and independent film makers involved with the production of broadcast or print endeavors including, but not limited to, features, documentaries, commercials, and pilots for proposed news, or entertainment programs.

(b) News media and non-news media representatives shall be allowed to interview inmates in person in accordance with the visiting requirements of sections 3170 through 3176.3.

(1) No inmate or parolee may have his or her visitation limited or revoked solely because of a visit or potential visit from a news media or non-news media representative, nor may an inmate or parolee be punished, reclassified, disciplined, transferred to another prison against his or her wishes, or otherwise retaliated against, solely for participating in a visit by, or communicating with, a news media or non-news media representative.

(2) During an interview conducted pursuant to subsection 3261.5(b), news media and non-news media representatives shall be allowed to bring up to three (3) pens, three (3) pencils and one (1) pad of paper into the facility. These items shall be searched to protect against an immediate and direct threat to the security of the institution.

(c) Inmate telephone calls to news media and non-news media representatives shall be allowed in accordance with section 3282 and may be recorded by the media representative with the inmate's consent.

(d) Except as provided by subsection 3261.5(b), access by news media and non-news media representatives to department institutions, contract facilities and equipment requires prior approval pursuant to the provisions in subsection 3261.1(a).

(1) Non-news media representatives must provide proof of employment by a bona fide publication or production company, or have evidence that such a company has contracted to purchase the completed project prior to approval.

(2) Non-news media representative requests for access to departmental facilities, on-duty staff or inmates shall include project and production details as necessary to determine security and operational impacts. (3) Non-news media representative film productions require a California Film Commission permit, along with evidence of financial responsibility and liability insurance of at least $1 million indemnifying and defending the State of California, its offices, employees and agents against any lawsuits.

(e) News media and non-news media representatives may be allowed access to security housing units and administrative segregation with the prior approval of the institution head.

(1) Access to any secured area where lethal weapons are maintained requires the prior approval of the institution head.

(2) The institution head may allow access to an area outside the secure perimeter of a facility to news media representatives.

(f) News media and non-news media representatives may be permitted random face-to-face interviews with inmates or parolees housed in facilities under the jurisdiction of the department, and random or specific-person face-to-face interviews with staff. Such interviews shall be conducted as stipulated by the institution head, including restricting the time, place and duration of interviews, and size of technical crews.

(1) Random interviews of individuals involved in a specific activity or program, or encountered while covering a facility activity or event shall be limited to the time, areas and segments of the facility population designated by the institution head.

(2) Inmates may not participate in specific-person face-to-face interviews except as provided in subsection 3261.5(b).

(g) Use of cameras or recording equipment shall require prior approval of the institution head or designee. Photographs, films or video recording of inmates shall be allowed in accordance with section 3261.7.

(h) The news media and non-news media representatives or their organization(s) may be required to pay the security or escort costs provided for the interview.

(i) No inmate, parolee or staff shall be interviewed against their will.

(j) CDCR Form 146 (Rev. 06/08), Inmate Declaration To News Media Contact, shall be completed whenever an inmate is the subject of an interview, still photograph, motion picture or other recording intended for use by a television or radio station, or newspaper, magazine or other publication.

(k) One employee shall witness the inmate's signature on the completed CDCR Form 146.

(*l*) Inmates under 18 years of age shall not be photographed, filmed or video recorded.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code, and *Pell* v. *Procunier*, 94 S.Ct. 2800 (1974).

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
3. Amendment of subsection (a), repealer and new subsection (a)(2), amendment of subsection (d), repealer of subsection (e)(1) and subsection relettering, new subsection (f) and amendment of Note filed 4-8-96 as an emergency; operative 4-8-96 (Register 96, No. 15). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 9-15-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4-8-96 order transmitted to OAL 9-13-96 and disapproved 10-28-96 (Register 96, No. 44).
5. Amendment of subsection (a), repealer and new subsection (a)(2), amendment of subsection (d), repealer of subsection (e)(1) and subsection relettering, new subsection (g) and amendment of Note filed 10-28-96 as an emergency; operative 10-28-96 (Register 96, No. 44). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 4-6-97 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-28-96 order transmitted to OAL 3-3-97 and filed 4-14-97 (Register 97, No. 16).
7. Amendment filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3261.6. Seriously or Terminally Ill Inmate Media Interviews.

(a) Media interviews shall not be permitted with an inmate suffering from a mental illness when, in the opinion of a psychiatrist or psychologist, the inmate is not capable of giving informed consent or their condition may be worsened by such an interview.

(b) Controlled access may be permitted to seriously or terminally ill patients and their housing areas. Random interviews in such unit shall be closely monitored and shall be terminated if a majority of the unit's inmates object.

(c) No more than two visits per calendar month to a unit housing seriously or terminally ill inmates shall be allowed. Visits shall be on a first-come, first-served basis with a waiting list to be maintained by the facility's public information officer. A ''pool'' of no more than ten media persons per visit shall be permitted.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code; and Sections 1798.41 and 1798.42, Civil Code.

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3261.7. Cameras and Other Audio or Visual Recording Devices.

(a) Staff cannot prohibit a person who is not on facility property from photographing, filming, videotaping or otherwise recording any department facilities, employees, inmates, parolees or equipment.

(b) Persons are prohibited from interrupting, interfering or communicating with an inmate being transported or working off facility grounds without prior authorization of the staff person in charge or institution head.

(c) Photographs, films or videotapes for other than department purposes which reveal an inmate's identity may be taken within a facility subject to the following conditions:

(1) A CDCR Form 146 (Rev. 06/08) shall be completed for each inmate before a photograph, film or videotape identifying the inmate may be taken.

(2) An inmate's consent is not required where individuals in such settings as an exercise yard or dining hall are not singled out or where the inmate's identity is not revealed; however, before such shots are taken, inmates shall be advised so those who do not want to be recognized may turn away or leave the area.

(3) Photographs, films or videotapes revealing the identity of an inmate committed to the Division of Juvenile Justice shall not be made available other than for official purposes such as an escape.

(d) Unless there is a specified threat of imminent danger to an inmate or parolee by releasing their departmental identification photograph, news media representatives as defined in subsection 3261.5(a)(1) and non-news media representatives as defined in subsection 3261.5(a)(2) shall be permitted access to photographs without the inmate's or parolee's consent.

(1) News media and non-news media representatives shall pay for the facility's cost to provide such requested departmental identification photographs.

(2) Current departmental identification photographs of escaped inmates and parolees at large shall be provided without charge.

(e) Possession of any camera or other recording device within a facility is prohibited unless specifically authorized by the institution head.

(f) No camera or other recording device shall be permitted within the execution chamber area.

(1) Photographs or any other audio or visual recordings of an execution are prohibited.

(2) Media photography, filming or videotaping of the execution chamber is prohibited; however, stock department photographs and videotapes of the area are available upon request.

(g) Before photographers and camera operators enter a facility, they shall be informed of any restrictions, including that photographs or recordings are prohibited of: persons without their consent; and procedures, equipment or structures which will comprise security.

(h) Any photographs, film, video tape or other recording taken within facilities in violation of these regulations shall be seized and placed undamaged, undeveloped and unviewed in a secure area. The news media or non-news media representative's supplies and equipment shall not be damaged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 4570, 4570.1 and 5054, Penal Code.

HISTORY:

1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).
3. Amendment filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

3262. Public Events.

Visitors may be permitted to attend athletic games and other types of entertainment held at facilities only under conditions that will not jeopardize facility security and the visitor's safety. Visitor attendance shall be by invitation only. Attendance of visitors shall not deprive inmates of attendance or adequate seating at such events. Admission fees shall not be charged.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 ordered transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3263. Group Visits.

Visits to a facility by interested groups may be permitted under conditions not jeopardizing facility security or the safety of persons. Visitors shall be escorted through the facility as specified by the institution head. Tours shall be conducted in a manner avoiding embarrassment of inmates or visitors, and disruption of normal activities.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section filed 12-18-91 as an emergency; operative 12-18-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-16-92 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of printing error (Register 92, No. 4).
3. Editorial correction of printing error (Register 92, No. 5).
4. Certificate of Compliance as to 12-18-91 order transmitted to OAL 4-15-92 and filed 5-26-92 (Register 92, No. 22).

3264. Employee Guests.

Employees requesting to bring visitors into a facility shall first obtain authorization from the institution head.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3265. Arts and Crafts Exhibits.

(a) The public may be permitted to attend displays of inmate-made articles provided:

(1) Facility security shall not be jeopardized.

(2) Adequate facilities and staff are available to control against unauthorized visiting and introduction of contraband.

(3) The activity does not interfere with the normal facility operation.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Order of Repeal of subsection (b) filed 6-3-85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
2. Amendment of section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-19-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 24).

3266. Inmate Contacts with the Public.

Inmates shall not initiate any personal contact with the public except as specifically authorized. This does not preclude an inmate's courteous and appropriate response when contact is initiated by a member of the public.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 4570 and 5054, Penal Code.

HISTORY:
1. Renumbering of former section 3072 to new section 3266, including amendment of section heading and text, and new Note filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3267. Access of Public Officials to Facilities.

(a) A public official, except as provided in (b) below, of another governmental department or agency who needs to interview staff or inmates or to conduct an inspection shall request permission of the institution head at least 24 hours before the date and time of their desired arrival, stating the purpose of the proposed visit. Upon their arrival, the official's access shall be subject to the following requirements:

(1) The official shall be required to produce their picture identification and consent to a search.

(2) The official shall be escorted by staff at all times within the facility's security area.

(3) Any equipment required by the official shall be searched and under the control of staff while it is within the facility's security area.

(b) An elected state official's access may be denied only during an emergency with the approval of the Secretary of the California Department of Corrections and Rehabilitation. Access by the guests or staff of such officials may be denied when they have not been previously approved by the institution head.

(c) In cases of immediate need, and upon notification by the Secretary in writing, any prohibitions regarding access to inmates by public officials, their guests or staff may be suspended to assist in the interest of public understanding of departmental operations and responsibilities.

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

HISTORY:
1. New section filed 11-5-92; operative 12-7-92 (Register 92, No. 45).
2. Amendment of subsection (b) and new subsection (c) filed 8-29-2008; operative 9-28-2008 (Register 2008, No. 35).

Article 1.5. Use of Force and Restraining Devices

3268. Use of Force.

The purpose of this section is to set forth Department of Corrections policy governing the use of force. The policy has its foundation in California Penal Code statutes and relevant case decisions.

(a) Definitions.

(1) Reasonable Force:

The force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

(2) Unnecessary Force:

The use of force when none is required or appropriate.

(3) Excessive Force:

The use of more force than is objectively reasonable to accomplish a lawful purpose.

(4) Non-Deadly Force:

Any use of force that is not likely to result in death.

(5) Deadly Force:

Any use of force that is likely to result in death.

(6) Use of Force Options:

(A) The choices available to an employee when selecting a reasonable force option.

(B) The choices include, but are not necessarily limited to: verbal persuasion or orders; physical strength and holds; chemical agents and/or other immobilization devices; handheld batons; less-lethal weapons or firearms.

(1.) For the purposes of this section, a ''less-lethal weapon'' includes the 37 mm launcher and any other weapon when used to fire less-lethal projectiles.

(2.) For the purposes of this section, a ''firearm'' is a weapon used to fire lethal projectiles.

(b) It is the policy of the Department of Corrections to accomplish the custodial and correctional functions with minimal reliance on the use of force. Employees may use reasonable force as required in the performance of their duties, but unnecessary or excessive force shall not be used.

(c) The Department of Corrections recognizes the sanctity of human life. Therefore, deadly force will only be used when it is the reasonable force, as defined in section 3268(a)(1), and is needed to:

(1) Defend the employee or other persons from an immediate threat of death or great bodily injury.

(A) For the purposes of this section, ''great bodily injury'' means an injury that creates a substantial risk of death.

(2) Prevent an escape from custody.

(3) Stop acts such as riots or arson that constitute an immediate jeopardy to institutional security and, because of their magnitude, are likely to result in escapes or the death of other persons.

(4) Dispose of seriously injured or dangerous animals when no other disposition is practical.

(d) A firearm shall not be discharged if there is reason to believe that persons other than the intended target will be injured.

(e) Firearms may be discharged as a warning only in an institutional/facility setting and only when deadly force is permitted under section 3268(c).

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 196, 835a, 2651, 2652, and 5054 Penal Code; and section 50 Civil Code; *Whitley* v. *Albers* (1985) 475 U.S. 312, 106 S.Ct. 1078.

HISTORY:
1. New article 1.5 (sections 3268–3268.2) and section filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
2. Editorial correction of History 1 (Register 99, No. 24).
3. Certificate of Compliance as to 4-1-99 order, including amendment of first paragraph, transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3268.1. Reporting and Investigating the Use of Force.

(a) Reporting Non-Deadly Force.

(1) An employee who uses or observes non-deadly force greater than verbal persuasion to overcome resistance or gain compliance with an order shall document that fact. The document shall identify any witnesses to the incident and describe the circumstances giving rise to the use of force, and the nature and extent of the force used. The employee shall provide the document to his or her immediate supervisor.

(2) The employee's immediate supervisor shall review the document to ensure that it is adequately prepared and to reach a judgment concerning the appropriateness of the force used. The supervisor shall document his or her conclusions and forward them with the employee's document through the designated chain of command, to the institution head for approval or follow-up action.

(b) Reporting Deadly Force.

(1) An employee who uses deadly force, whether on or off duty, shall ensure that a supervisory employee is notified of the incident without delay.

(2) The supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical and security measures are initiated. If the incident is in an institution/facility, the supervisor shall go to the location and ensure that the scene is protected.

(3) The Assistant Director, Office of Internal Affairs, or designee shall designate an employee to be in charge of the investigation. The employee shall go to and take charge of the scene. The employee shall assemble the appropriate investigative staff and ensure that all necessary investigative procedures and coordination with affected law enforcement entities are accomplished. The product of the investigation will be a report to the Director with conclusions concerning the extent to which the use of force did or did not comply with the law. However, when the deadly force is used in the community, local law enforcement shall take charge of the scene.

(4) A Deadly Force Review Board (DFRB) shall be convened as soon as possible after the investigation is completed.

(A) The Director or designee shall designate the members of the DFRB.

(B) The DFRB shall be composed of at least four members. Three shall be non-departmental law enforcement professionals. One shall be either a Regional Administrator or a Regional Parole Administrator outside the region or jurisdiction where the deadly force was used. Additional members may be designated by the Director or designee.

(C) The DFRB shall examine all aspects of the incident to determine the extent to which the use of force complied with departmental policies and procedures, and to determine the need for policy, training and/or equipment modifications. The DFRB shall report its findings, in writing, to the Director for approval or follow-up action.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 196, 835a, 2651, 2652, and 5054 Penal Code; and section 50 Civil Code.

HISTORY:

1. Renumbering of former section 3280 to new section 3268.2, including amendment of section heading, section and Note, filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
2. Editorial correction of History 1 (Register 99, No. 24).
3. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3268.2. Use of Restraints.

(a) Mechanical means of physical restraint may be used only under the following circumstances:

(1) When transporting a person between locations.

(2) When a person's history, present behavior, apparent emotional state, or other conditions present a reasonable likelihood that he or she may become violent or attempt to escape.

(3) When directed by medical staff, to prevent a person from attempting suicide or inflicting injury to himself or herself.

(b) Mechanical restraints shall not be:

(1) Used as punishment.

(2) Placed around a person's neck.

(3) Applied in a way likely to cause undue physical discomfort or restrict blood flow or breathing. e.g., hog-tying.

(4) Used to secure a person to a fixed object except, as a temporary emergency measure. However, a person who is being transported shall not be locked in any manner to any part of the transporting vehicle.

(5) Placed on an inmate during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of mechanical restraints to avoid the imminent threat of death, escape, or great bodily injury, and only for the period during which such threat exists.

(c) When mechanical restraint is required, handcuffs, alone or attached to a waist chain, will be the means of restraint normally used. However, additional mechanical restraint, including leg irons, additional chains, straight jackets, leather cuffs, or other specialized restraint equipment may be used when the circumstances indicate the need for the level of control that such devices will provide.

(d) Use of mechanical restraints on inmates confirmed, or suspected by health care staff to be pregnant shall be subject to the following requirements:

(1) No leg restraints or waist chains shall be applied.

(2) If handcuffs are applied, the inmate's arms shall be brought to the front of her body for application.

(3) When transporting a pregnant inmate off grounds, the application of restraint gear shall be restricted to handcuffs to the front of the inmate only. If the pregnant inmate is in labor, the rules provided in subsection 3268.2(b)(5) shall also be followed.

(e) Use of restraint equipment by direction of medical staff shall be fully documented in the institution medical file of the restrained inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 196, 835a, 2650, 2651, 2652, 2652.5, 3423, 5007.7 and 5054, Penal Code.

HISTORY:

1. Renumbering of former section 3280 to new section 3268.2, including amendment of section heading, section and Note, filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section5058(e)(1).
2. Editorial correction of History 1 (Register 99, No. 24).
3. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).
4. New subsections (b)(5) and (d)(1)–(3), subsection relettering and amendment of Note filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

Article 1.6. Inmate Housing

3269. Inmate Housing Assignments.

Inmates shall accept Inmate Housing Assignments (IHAs) as directed by staff. It is the expectation that all inmates double cell, whether being housed in a Reception Center, General Population (GP), an Administrative Segregation Unit (ASU), a Security Housing Unit (SHU), or specialty housing unit. If staff determines an inmate is suitable for double celling, based on the criteria as set forth in this section, the inmate shall accept the housing assignment or be subject to disciplinary action for refusing. IHAs shall be made on the basis of available documentation and individual case factors. Inmates are not entitled to single cell assignment, housing location of choice, or to a cellmate of their choice.

(a) Upon arrival at an institution, facility, or program reception center, a designated custody supervisor shall screen an inmate for an appropriate housing assignment. The screening authority in-

volved in the review and approval of an inmate's housing assignment must evaluate all factors to be considered, including but not limited to:

• Length of sentence.
• Enemies and victimization history.
• Criminal influence demonstrated over other inmates.
• Reason(s) for prior segregation.
• History of "S" suffix determination pursuant to CCR subsection 3371.1(c).
• History of in-cell assaults and/or violence.
• Prison gang or disruptive group affiliation and/or association.
• Nature of commitment offense.
• Documented reports from prior cellmate(s) that the inmate intimidated, threatened, forced, and/or harassed him or her for sex.
• Documentation that the cellmate(s) refused to return to a cell occupied by the inmate because of fear, threats, or abuse perpetrated by the inmate.
• Documentation that the inmate has been the victim of a sexual assault.
• Adjudicated Department Rules Violations Reports (RVR) where the inmate was found guilty as a perpetrator in an act of physical abuse, sexual abuse, sodomy, or other act of force against a cellmate.

(b) The screening authority shall complete a CDCR Form 1882 (rev. 2/07), Initial Housing Review, stating if the inmate is suitable for dorm/cell housing with or without special restrictions. Restrictions are any case factors which may limit the inmate's housing placement options such as, but not limited to:

• Security issues including ASU and SHU placement.
• Request for Protective Custody.
• Medical or mental health issues.
• Integrated Housing Code. Staff shall ensure that the housing policies regarding special category inmates covered under specific litigation remain in place during the housing assignment.

(c) Upon placement in an ASU or SHU, inmates shall be screened for an appropriate cell assignment using the same criteria as inmates being screened for housing in the general population. The reason for ASU or SHU placement shall also be taken into consideration.

Based on available information and the inmate interview, the screening authority shall determine if the inmate is suitable for single or double celled housing, and shall complete a CDC Form 114-A1 (rev. 10/98), Inmate Segregation Profile. Unless approved for single cell assignment, an inmate in ASU or SHU is expected to share a cell with another inmate.

(d) Single cell status shall be considered for those inmates who demonstrate a history of in-cell abuse, significant in-cell violence towards a cell partner, verification of predatory behavior towards a cell partner, or who have been victimized in-cell by another inmate. Staff shall consider the inmate's pattern of behavior, not just an isolated incident. An act of mutual combat in itself does not warrant single cell status. The following factors must be considered when evaluating single cell status, noting these factors are not exclusive of other considerations:

(1) Predatory behavior is characterized by aggressive, repeated attempts to physically or sexually abuse another inmate.

(2) Documented and verified instances of being a victim of in-cell physical or sexual abuse by another inmate.

(e) Should the screening authority determine that single cell designation is appropriate, the inmate's case factors shall be reviewed by a classification committee for determination of appropriate housing and designation for an "S" suffix. A classification committee may consider whether an inmate with single cell designation has since proven capable of being double-celled.

(f) In cases where single cell status is recommended by clinical staff due to mental health or medical concerns, a classification committee shall make the final determination of an inmate's cell assignment. The classification committee shall consider the clinical recommendations made by the evaluating clinician with assistance from the clinician who participates in the committee and review the inmate's case factors when determining the housing assignment. Single cell status based upon clinical recommendation is usually a temporary short-term measure and must be periodically reviewed, minimally at an inmate's annual review or more frequently at the inmate's/clinician's request.

(g) If an inmate refuses to be housed as determined to be appropriate to this section, the inmate shall be subject to the disciplinary process, with the potential to be housed in alternative and more restrictive housing. Refusal to participate will result in the issuance of a Rules Violation Report (RVR) for Conduct, subsection 3005(c), Refusing to Accept Assigned Housing, for the Specific Act of Willfully Resisting, Delaying, or Obstructing any Peace Officer in the performance of Duty (CCR subsection 3323(f)(6)). Subsequent acts of the above listed offense will result in the issuance of additional disciplinary reports and consideration for placement in more restrictive housing such as an ASU or a SHU.

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

HISTORY:

1. New section filed 3-18-2008 as an emergency; operative 3-18-2008 (Register 2008, No. 12). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-25-2008 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-18-2008 order, including amendment of subsection (f), transmitted to OAL 8-18-2008 and filed 9-15-2008 (Register 2008, No. 38).

3269.1. Integrated Housing.

An inmate's race will not be used as a primary determining factor in housing an institution's inmate population. Inmate housing assignments shall be made on the basis of available documentation and individual case factors to implement an Integrated Housing Policy (IHP). Individual case factors include, but are not limited to, such factors as:

(1) History of racial violence.
(2) Commitment offense/time to serve.
(3) Classification score.
(4) Custody level.
(5) Education.
(6) Disciplinary history.

The IHP is set forth in these regulations. Housing assignments will be determined in a manner that will ensure that the safety, security, treatment, and rehabilitative needs of the inmate are considered, as well as the safety and security of the public, staff and institutions. Upon adoption of these regulations in 2007, the department will begin to update a computer tracking system to include the assignment of an Integrated Housing Code (IHC) as set forth in subsection (b) that will be used to identify each inmate's ability to integrate. On January 1, 2008, actual implementation of the IHP will commence at designated facilities. On January 1, 2009, the IHP will begin to be implemented at all remaining institutions.

(a) The department's housing protocol will require male inmates to be housed in an appropriate bed, based on each inmate's Integrated Housing Code (IHC) and/or individual case factors. The department will utilize a computer tracking system to identify, track, and monitor an inmate's eligibility to integrate when being housed.

(b) Based on a review of an inmate's individual case factors and a personal interview with an inmate, an IHC will be assigned. The appropriateness of an inmate's IHC will be assessed at least at an

inmate's Annual Review, or as case factors may change, and adjusted as necessary. An IHC that may be assigned are detailed as follows:

(1) RE, Racially Eligible. An inmate that has not been a victim or perpetrator of a racially motivated crime and can live with members of any race. It is the expectation of the department that all inmates will be coded RE, unless certain case factors dictate otherwise.

(2) RP, Restricted Partially. An inmate that may be considered ineligible to live with inmates of a particular race. Ineligibility to live with someone of another race could be based on a racially motivated incident, where racial beliefs or attitudes were the cause of the incident.

(3) RO, Restricted to Own (Race). An inmate that has been the victim and/or perpetrator of a racially motivated crime. Inmates who are coded RO Restricted to Own will not be precluded from integration in other aspects of institutional operation, such as a school or work assignment. Inmates coded as RO are not precluded from racially integrated housing for the entire duration of their sentence.

(4) RT, Restricted Temporarily by Custody. Inmates with insufficient information or documentation for the designated custody supervisor to make an objective determination shall be coded RT for Restricted Temporarily by Custody. This code may be used when conflicting information arrives with the inmate or when questionable statements or behavior by the inmate are observed that are not consistent with the inmate's claim of eligibility.

(5) RR, Restricted by Refusal. Inmate is otherwise eligible for integrated housing but refuses to participate. Refusal to accept an integrated housing assignment, when all available documentation and information does not preclude such, shall result in disciplinary action with the potential to be housed in alternative and more restrictive housing, such as an Administrative Segregation Unit (ASU) or a Security Housing Unit (SHU).

(c) Inmates arriving in a facility Receiving and Release will be interviewed in accordance with the established process for intake. The designated custody supervisor will use the information provided during the interview as well as the supporting documents received to determine the inmate's eligibility for an integrated housing assignment.

(d) New arrivals at a facility or inmates who require a bed assignment change will be housed in the first available and appropriate bed, taking into consideration all relevant case factors. Staff will also consider other available information that would indicate or present an immediate risk or safety concern for the inmate such as, but not limited to:

(1) Security issues including ASU placement.

(2) SHU.

(3) Request for Protective Custody.

(4) Prison gang or disruptive group affiliation or association.

(5) Medical or mental health issues.

(6) Length of term.

(7) Height, weight, and age.

Staff will continue to ensure that current housing policies regarding special category inmates covered under specific litigation remain in place during the housing process.

(e) If an inmate refuses to be housed in appropriately determined housing, he shall be subject to the disciplinary process, with the potential to be housed in alternative and more restrictive housing. Refusal to participate will result in the issuance of a Rules Violation Report (RVR) for Conduct, section 3005(c), Obeying Orders, for the Specific Act of Willfully Resisting, Delaying, or Obstructing any Peace Officer in the Performance of Duty (CCR subsection 3323(f)(6)), and shall be considered after the first RVR for placement in more restrictive housing such as an ASU or a SHU. At any time during this process the inmate may elect to participate in the IHP.

(f) Disciplinary restrictions will be applied as a result of a disciplinary process where inmates are afforded due process. The suspension of privileges based on a finding of guilt in a disciplinary hearing shall be assessed as set for the in CCR subsections 3315(f)(5)(M)1. and (M)2.

(g) In the event that facility management determines that a temporary suspension of assignments within a unit to integrated beds is warranted, the Warden or designee shall request approval from their mission based Associate Director for a temporary suspension of integrated housing assignments consistent with the lockdown and modified program. Regular housing assignment procedures shall be resumed in accordance with the Integrated Housing policy upon resolution of the incident.

NOTE: Authority cited: Section 5058, Penal Code. Reference: 5054, Penal Code; *Johnson* v. *California* (2005) 543 U.S. 499 [125 S. Ct. 1141], remand of *Johnson* v. *California*, (9th Cir. 2007) [Dock. No. CV 95–1192 CBM(BQR)].

HISTORY:

1. New article 1.6 (section 3269.1) and section filed 12-28-2007; operative 12-28-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 52).

Article 2. Security

3270. General Policy.

The primary objectives of the correctional institutions are to protect the public by safely keeping persons committed to the custody of the Director of Corrections, and to afford such persons with every reasonable opportunity and encouragement to participate in rehabilitative activities. Consistent effort will be made to insure the security of the institution and the effectiveness of the treatment programs within the framework of security and safety. Each employee must be trained to understand how physical facilities, degree of custody classification, personnel, and operative procedures affect the maintenance of inmate custody and security. The requirement of custodial security and of staff, inmate and public safety must take precedence over all other considerations in the operation of all the programs and activities of the institutions of the department.

Comment: Former DP-4201, policy, general.

3270.1. Lethal Electrified Fences.

(a) For the purposes of this section, a lethal electrified fence is a high voltage fence installed for the lethal infliction of injury to escaping inmates.

(b) Safety precautions shall be instituted to prevent accidental electrocution. These precautions shall include, but are not limited to, the following:

(1) The posting of warning signs on the inner and outer perimeters of the facility informing staff, inmates, and the public of the presence of a lethal electrified fence.

(2) A visual inspection of the lethal electrified fence area at least once per shift.

(3) Regular inspections by an outside patrol of the perimeter areas.

(4) The presence of a staff person trained in energizing and deenergizing the fence prior to any authorized person entering the lethal electrified fence area.

(5) Inspections of lethal electrified fences as specified by a routine maintenance schedule.

(6) The insulation of lethal electrified fences between two security fences.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2052 and 5054, Penal Code.

HISTORY:

1. New section filed 12-15-93 as an emergency; operative 12-15-93 (Register 93, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-25-94 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 4-15-94 as an emergency; operative 4-25-94 (Register 94, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-23-94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 37).
4. New section including amendments, refiled 9-15-94; operative 9-15-94 (Register 94, No. 37).

3271. Responsibility of Employees.

Every employee, regardless of his or her assignment, is responsible for the safe custody of the inmates confined in the institutions of the department.

Comment: Former DP-4202, responsibility of employees.

3272. Custody Classification.

The classification committee at each institution must assign a custodial classification to each inmate, in accordance with the custodial classifications prescribed by the department. The senior custodial officer on duty may temporarily increase the custodial classification of an inmate at any time he or she believes such action is necessary to protect the security and good order of the institution. Such action is subject to classification committee review at the next regular meeting. Any reduction of an inmate's custody classification must be by classification committee action.

Comment: Former DP-4203, custody classification.

3273. Acceptance and Surrender of Custody.

Wardens and superintendents must not accept or surrender custody of any prisoner under any circumstances, except by valid court order or other due process of law.

Comment: Former DP-4204, acceptance and surrender of custody.

3274. Inmate Count and Movement.

(a) Inmate count. Every institution head shall maintain a system to account at all times for inmates under their jurisdiction. A physical count of all inmates shall be taken at least four times during each calendar day unless otherwise authorized in writing by the director. No inmate activity shall be scheduled at a time which would disrupt a facility count.

(1) Standing count. At least one daily count shall be a standing count wherein inmates shall stand at their cell door or, in a dormitory, shall sit on their assigned bed during the designated count time.

(2) Emergency count. If staff determines an inmate may be missing, an emergency count shall be conducted to determine whether an escape has occurred and, if so, the identity of the escapee. When an emergency count is announced, inmates shall return to their assigned housing, except in a medical emergency or other exception specifically authorized by the official in charge.

(b) Inmate movement. Each facility shall establish a schedule of routine inmate movement to and from the facility's activities and assignments such as work and education, and the gym or exercise yard.

(1) Appointments. A CDC Form 129 (Rev. 7/88). Inmate Pass, shall be issued to an inmate approved for movement to a scheduled non-routine appointment. Medical service and casework appointments shall not be scheduled during an inmate's work or program hours unless an inmate cannot otherwise obtain the service or case work.

(2) Unscheduled movement. If unscheduled movement of an inmate is necessary, such movement shall not take place unless the inmate is escorted by staff, or a pass has been issued by staff authorizing the movement.

(3) Routine movement. A gate pass shall be maintained for each inmate assigned to work outside a facility's security area. The gate pass shall:

(A) Not be handled by any inmate.

(B) Include the inmate's identification photo, name, CDC number, housing assignment, custody designation, assignment requiring the gate pass, effective date of the pass, times the inmate is authorized to pass through the gate, and the signature of a facility official authorized to approve gate passes.

(C) Be rescinded by staff at the level of correctional lieutenant or higher, pending a classification committee review whenever:

1. A hold or detainer against an inmate's release, or notice thereof, is received by the facility.
2. Staff determines from the inmate's behavior that the inmate may require increased supervision.
3. Staff receives information indicating an inmate's increased escape potential.

(c) Lockdown. Facility procedures governing the restriction of inmate movement during a lockdown shall be established and updated daily during any lockdown.

(d) Limited visibility. When visibility at a facility is severely restricted or a state of emergency is declared, inmates shall be confined to their housing units, except as otherwise authorized by the official in charge. In such circumstances, all inmate movement shall be under the direct and constant supervision of staff.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2079 and 5054, Penal Code.

HISTORY:

1. Amendment filed 7-29-76; effective thirtieth day thereafter (Register 76, No. 31).
2. Amendment of section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-17-92 and filed 6-1-92 (Register 92, No. 23).

3275. Weapons.

(a) Only such weaponry as has been approved by the director for department-wide use, or for use only by designated jurisdictions of the department, shall be issued/assigned to an employee or carried/used by an employee while on duty. For the purpose of this section, weaponry includes any offensive or defensive lethal or less lethal device. Employees assigned to facilities or work locations where inmates/parolees are located, or in the supervision of inmates/parolees in the community, shall not have accessible, carry or use any privately owned weaponry while on duty, except as authorized by the director.

(b) No weaponry of any kind shall be taken into the security areas of an institution where inmates/parolees are located except for emergency use as ordered by the official in charge, or for use in regularly armed posts as prescribed in local procedures or post orders.

(c) All necessary precautions shall be taken in the storage, use and movement of weaponry to prevent it from falling into the hands of inmates, parolees or other unauthorized persons.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 830.5, 4574, 5054, Penal Code.

HISTORY:

1. Amendment filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
2. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) filed 3-28-95 as an emergency; operative 3-28-95 for 160 days pursuant to Penal Code Section 5058(e) (Register 95, No. 13). A Certificate of Compliance must be transmitted to OAL by 9-4-95 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to orders of 1-3-95 and 3-28-95 including amendment of subsection (a) and Note transmitted to OAL 6-12-95 and filed 7-24-95 (Register 95, No. 30).

3276. Firearms.

(a) Only peace officers who have satisfactorily completed firearms training and who are currently qualified in the firing of departmental firearms shall be assigned to armed posts or otherwise be authorized to possess, carry or use a departmental firearm. Exceptions are only authorized in extreme emergencies when peace officers are not available in sufficient numbers or in time to stop or control a situation which warrants the immediate use of force, as described in section 3268.

(b) An employee appointed to a peace officer position wherein the specifications of the position include the carrying and use of firearms shall be given a reasonable time to complete firearms training and to qualify in the firing of departmental firearms. Persistent failure or refusal to satisfactorily complete firearms training and to qualify in the firing of departmental firearms shall be cause for dismissal from employment as a peace officer.

(c) Employees shall not have accessible, carry or use privately owned firearms or ammunition while on duty, except as authorized by the director or his/her designee. For the purpose of this section ''on duty'' means any time which is compensable as actual time worked.

(d) Employees who are ordered to carry a concealable firearm while on duty away from facilities where inmates/parolees are located shall keep the firearm concealed at all times except when use of the firearm is necessary. Employees on duty on the grounds of, and in, facilities where inmates/parolees are located shall not carry a concealed firearm unless ordered to do so by the official in charge.

(e) Each facility where inmates/parolees are located which maintains an unissued supply of firearms and ammunition, as described in Section 3275, shall provide for its long-term storage in a physically secure armory. Armories shall be located so as to be under 24-hour-a-day coverage of an armed post and away from areas that are open to traffic by unsupervised inmates/parolees and the public. Community Correctional Facility armories shall be exempt from the armed coverage requirement, but they shall be under 24-hour-a-day observation by staff directly, or by video surveillance, and shall be equipped with audible electronic alarms.

(f) Each facility where inmates/parolees are located shall provide a physically secure locked container, located outside the security areas, for the temporary storage of firearms, ammunition and other weaponry of employees and officials who must come on the grounds or enter the facility in the course of their employment or official business.

(g) Employees and others who live on the grounds of facilities where inmates/parolees are located, and any guests or visitors of such persons, shall not bring to, maintain, store or keep any firearms or ammunition in such residences at any time. Arrangements shall be made for the use of storage facilities described in subsections (e) and (f).

(h) Firearms and ammunition shall not be left in an unattended vehicle at any time upon the grounds of facilities where inmates/parolees are located. Exceptions are authorized only when the vehicle is securely locked and under the direct observation of staff who are aware that the vehicle contains firearms or ammunition, or when the vehicle is equipped with a departmentally approved secure container for such equipment. Merely out of sight storage such as in the spare tire well, trunk or glove box does not meet the requirements for a secure container.

(i) The loss or theft of departmentally issued/authorized firearms/duty weapons or related equipment shall be immediately reported to the responsible employee's supervisor, and through the supervisor to the administrator of the jurisdiction of employment, and/or to the attention of the administrator in which the loss or theft occurred, if in a different jurisdiction. Local law enforcement agencies shall be notified, and a written report shall be made to the deputy director/assistant director within whose jurisdiction the loss or theft occurred.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 830, 830.5, 4574, and 5054, Penal Code.

HISTORY:

1. Repealer and new section filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
2. Amendment of subsection (a)(6) filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
3. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (b) and (b)(5) filed 3-28-95 as an emergency; operative 3-28-95 for 160 days pursuant to Penal Code s 5058(e) (Register 95, No. 13). A Certificate of Compliance must be transmitted to OAL by 9-4-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to orders of 1-3-95 and 3-28-95 including amendment of section and Note transmitted to OAL 6-12-95 and filed 7-24-95 (Register 95, No. 30).
6. Amendment filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
7. Editorial correction amending History 6 (Register 99, No. 26).
8. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).
9. Amendment of subsections (c) and (i) filed 4-17-2002; operative 5-17-2002 (Register 2002, No. 16).
10. Amendment of subsection (e) filed 5-2-2007; operative 6-1-2007 (Register 2007, No. 18).

3277. Use of Tear Gas.

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

HISTORY:

1. Amendment of Subsection (a) filed 5-28-76 as an emergency; designated effective 7-1-76 (Register 76, No. 19).
2. Certificate of Compliance filed 7-29-76 (Register 76, No. 31).
3. Amendment filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
4. Amendment of subsection (a) filed 8-7-80 as an emergency; effective upon filing (Register 80, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-80.
5. Certificate of Compliance filed 12-5-80 (Register 80, No. 49).
6. Amendment of subsections (a)(1) and (a)(3), repealer of subsections (a)(4)–(a)(4)(F)5., amendment of subsections (b), (b)(1) and (b)(3)–(4), and repealer of subsection (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1-3-95 order including amendment of subsections (a)(3), (b)(1), (b)(3), and (b)(4) transmitted to OAL 6-12-95 and filed 7-24-95 (Register 95, No. 0).
8. Repealer filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
9. Editorial correction amending History 8 (Register 99, No 26).
10. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3278. Control of Inmates and Parolees.

Employees who supervise inmates or parolees must have training in physical controls, use of restraint equipment, and keep

themselves in good physical condition. In addition, all employees who supervise inmates must have training designed to give them knowledge of emotional disturbances common to inmates and parolees, and understanding of their own feelings, and the use of such knowledge in ways, which will minimize the need for the use of physical force. Batons may be carried only as specifically authorized by the director.

Comment: Former DP-4209, control of inmates.

3279. Use of Force.

HISTORY:

1. Repealer filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
2. Editorial correction amending History 1 (Register 99, No. 26).
3. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3280. Mechanical Restraint.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2650, 2652 and 5054, Penal Code.

HISTORY:

1. Amendment of subsections (a)(2) and (c) filed 5-28-76 as an emergency; designated effective 7-1-76 (Register 76, No. 19).
2. Certificate of Compliance filed 7-29-76 (Register 76, No. 31).
3. Amendment of subsection (b) filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
4. Amendment filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
5. Editorial correction of printing errors in subsections (b) and (c) and History (Register 92, No. 5).
6. Change without regulatory effect amending subsection (a)(2) filed 1-20-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 4).
7. Renumbering of former section 3280 to new section 3268.2 filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
8. Editorial correction amending History 7 (Register 99, No. 26).
9. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3281. Corporal Punishment.

HISTORY:

1. Repealer filed 3-12-99 as an emergency; operative 4-1-99 (Register 99, No. 11). A Certificate of Compliance must be transmitted to OAL by 9-8-99 or emergency language will be repealed by operation of law on the following day pursuant to Penal Code section 5058(e)(1).
2. Editorial correction amending History 1 (Register 99, No. 26).
3. Certificate of Compliance as to 4-1-99 order transmitted to OAL 9-8-99 and filed 10-20-99 (Register 99, No. 43).

3282. Use of Telephones by Inmates.

(a) For purposes of this section:

(1) An ''emergency call'' means a telephone call regarding the serious illness or injury, or the death of an inmate's immediate family member.

(2) A ''confidential call'' means a telephone call between an inmate and his/her attorney which both parties intend to be private.

(3) An ''inmate telephone'' means a telephone designated solely to accommodate inmate-originated nonconfidential personal calls.

(4) An ''intrafacility telephone'' means a telephone which is not capable of direct-dial connections to telephones outside of the facility.

(5) A ''prison telephone'' means a telephone that is capable of outside access and is not monitored or recorded.

(b) Facilities shall provide inmate telephones for use by general population inmates. Inmates may place collect telephone calls to persons outside the facility at designated times and on designated telephones, as set forth in local procedures. Limitations may be placed on the frequency and length of such calls based on the inmate's privilege group as outlined in section 3044, and to ensure equal access. Telephone calls requiring the use of a Telecommunication Device for the Deaf (TDD) or voice relay service shall have extended time scheduled due to the time delay which results from the TDD relay process.

(c) An inmate shall not:

(1) Use an intrafacility telephone except as specifically required or authorized by staff.

(2) Use a telephone capable of direct-dial connection with a public telephone system, except as authorized by staff.

(3) Charge a call to a credit card.

(4) Place a third party call.

(5) Ask the operator for an emergency interruption.

(6) Place a call to an ''800,'' ''900,'' ''976,'' ''911,'' ''411,'' or other special service number. Inmates that have a verified need to utilize the (1-800) TDD or relay service shall notify the correctional staff to facilitate the (1-800) TDD call.

(7) Place a call to an inmate at any other facility.

(8) Place calls to victims, peace officers, or other persons who have made an official written request not to receive telephone calls.

(9) Knowingly participate in a forwarded, transferred, or three-party call on an inmate telephone.

(d) Except as provided in this section, no limitation shall be placed on the identities or relationships of persons to whom an inmate may place a collect call.

(e) All inmate calls placed on intrafacility and inmate telephones may be subject to monitoring and recording at any time by institution staff.

(f) A conspicuous notice in English and Spanish shall be posted at each inmate telephone capable of recording and monitoring stating in both languages: All numbers dialed and conversations on this telephone may be recorded and may be monitored without any further notice. By using this telephone, you agree to the monitoring and recording. It is your responsibility to notify the person called that their conversation and telephone number may be monitored and will be recorded.'' Staff who authorize an inmate to use an unposted telephone for a nonconfidential call shall inform that inmate before the call is made regarding the notice of monitoring/recording requirement.

(g) If staff designated by the institution head determine that an incoming call concerns an emergency or confidential matter, the caller's name and telephone number shall be obtained and the inmate promptly notified of the situation. The inmate shall be permitted to place an emergency or confidential call either collect or by providing for the toll to be deducted from the inmate's trust account. A confidential call shall not be made on an inmate telephone and shall not be monitored or recorded. If a call is determined to be an attorney/inmate confidential phone call, in order for the inmate to place or receive the call it must have already received approval/clearance in accordance with subsections (g)(1), (g)(2) and (g)(4).

(1) Confidential calls may be approved on a case-by-case basis by the institution head or designee, upon written request from an attorney on the attorney's office letterhead stationery. The request shall be made by written request via U. S. Postal Service or facsimile to the Institution Litigation Coordinator or designee. To obtain approval/clearance, the attorney shall provide in writing the following personal and professional information:

(A) Name.

(B) Mailing address.

(C) Date of Birth.

(D) Valid driver's license or state-issued identification card number.

(E) Proof of current registry and good standing with a governing bar association, and

(F) Indication of the jurisdiction(s) licensed to practice law. If the requesting attorney wishes to have a representative conduct the confidential phone call, the attorney representative must provide all applicable information listed above in addition to the attorney submitting their information. Refer to Title 15, subsection 3178(c)(1) for attorney representative criteria.

(2) Requesting attorney/attorney representative shall report any prior felony convictions or pending arrest dispositions, describe and explain any prior suspension or exclusion from a correctional facility, and declare under penalty of perjury one or more of the following:

(A) They are the named inmate's attorney either by appointment by the court or at the inmate's request.

(B) They have been requested by a judge to interview a named inmate for purposes of possible appointment as counsel by the same court.

(C) They are requesting to call a named inmate who may be a witness directly relevant to a legal process, purpose, or proceeding.

(D) They are seeking to interview a named inmate, at the request of the inmate, for the purpose of representation of the inmate in a legal process, for a legal purpose or in a legal proceeding, and

(E) They have been requested by a third party to consult with the named inmate when the inmate cannot do so because of a medical condition, disability or other circumstance.

(3) Any false statement or deliberate misrepresentation of facts specific to the information required in subsection (g)(2) shall be grounds for denying the request or cause for subsequent suspension or exclusion from all institutions/facilities administered by the department.

(4) Upon receipt of the information specified in (g)(1), a California law enforcement telecommunications system (CLETS) check of the attorney/attorney representative through the Department of Justice and verification of the attorney's credential through the governing state bar will be conducted. Once the clearance and state bar verification have been obtained and approved the attorney shall be contacted to schedule the confidential telephone call with the specified inmate. Attorneys and attorney representatives shall immediately report to the Institution Litigation Coordinator any change in personal or professional information, arrest history and or pending dispositions and declarations made in subsections (g)(1) and (g)(2) to retain their approval/clearance. In addition, a CLETS check will be conducted at least annually and as needed based on changes provided to the above listed information or information from any source that such changes had occurred.

(5) The date, time, duration, and place where the inmate will make or receive the call, and manner of the call are within the discretion of the institution head, except as restricted herein. A confidential call from an inmate shall be placed as a collect call or by providing for the toll to be deducted from the inmate's trust account and made from a prison telephone or, with appropriate authentication of the caller, may be received from an attorney.

(6) It is within the discretion of the institution head, or his/her designee, to approve or deny a confidential call. As long as the attorney/client communication privilege is not violated, a confidential call may be denied where the institution head, or his/her designee, determines that normal legal mail or attorney visits were appropriate means of communication and were not reasonably utilized by the inmate or attorney. Where demand for confidential calls seriously burdens institutional operations, the institution head, or his/her designee, shall prioritize confidential calls.

(7) Emergency calls on prison telephones between an inmate and clergy, other religious advisors, or health care professionals shall be approved or denied on a case-by-case basis by staff designated by the institution head.

(8) Inmates, approved attorneys/attorney representatives and pending approval confidential phone call applicants may appeal any departmental policies, staff decisions and institution/facility procedures related to confidential phone calls by following the appeals process as contained in Title 15, Section 3179. Appeals Related to Visiting. Title 15, Section 3179 applies in its entirety.

(h) Telecommunication Device for the Deaf (TDD) telephones shall be made available to inmates with a documented severe hearing impairment for personal, emergency, and confidential calls, which shall be subject to the provisions of this section.

(1) Assistive device telephones and additional time on telephones may be necessary to provide accommodations for inmates and their callers with disabilities.

(2) The facility shall provide for the procedures necessary to ensure effective telephone communications for inmates with disabilities and/or the disabled person(s) with whom they are communicating.

(i) All calls made on inmate telephones shall have an announcement before and at random intervals during the calls stating that the call is from an inmate at a California state correctional facility and is being recorded.

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

HISTORY:

1. Amendment of subsection (d) filed 7-29-76; effective thirtieth day thereafter (Register 76, No. 31).
2. Amendment of subsection (c) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
3. Amendment filed 7-8-93; operative 8-9-93 (Register 93, No. 28).
4. New subsection (k) filed 6-17-94 as an emergency; operative 6-17-94 (Register 94, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-15-94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-17-94 order transmitted with amendments to OAL 10-17-94 and filed 12-1-94 (Register 94, No. 48).
6. Amendment filed 7-28-97 as an emergency; operative 7-28-97 (Register 97, No. 31). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 1-5-98 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of subsection (c)(6) (Register 98, No. 6).
8. Certificate of Compliance as to 7-28-97 order, including further amendments, transmitted to OAL 12-17-97 and filed 2-2-98 (Register 98, No. 6).
9. Amendment of subsections (g)–(g)(1), including renumbering of portion of subsection (g)(1) to new subsection (g)(5), new subsections (g)(1)(A)–(F), renumbering of former subsections (g)(2)–(3) to new subsections (g)(6)–(7) and new subsections (g)(2)–(4) and (g)(8) filed 1-8-2008; operative 2-7-2008 (Register 2008, No. 2).

3283. Unauthorized Persons.

Persons must not be permitted to be on institution grounds or in community correctional centers without a legitimate purpose for being there, nor shall persons be allowed to contact inmates without authorization to do so.

Comment: Former DP-4214, unauthorized persons.

3284. Unattended Vehicles.

Ignition switches must be locked and keys must not be left in any unattended vehicle on institution or community correctional center grounds. Under no circumstances may alcoholic beverages, drugs, firearms, toy guns, ammunition, or other items, which are illegal or threaten the security of the institution be left in any unattended vehicle on institution or community correctional center grounds.

Comment: Former DP-4215, unattended vehicles.

3285. Association with Inmates.

Persons who are not department employees, but who work with or near inmates are to be informed of the laws and regulations governing association with prison inmates. Such persons will be given, and be asked to read and acknowledge receipt of, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates, CDC Form 181.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Change without regulatory effect amending section and adding Note filed 5-7-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 19).

3286. Controlling and Reporting Fights.

When inmates fight, the participants must be separated at once. The participants will be placed in detention, unless in the judgment of a superior officer circumstances do not warrant such action. Employees who observe the fight will prepare a written report stating clearly everything they observed, and will submit this report to the disciplinary officer. The employee who renders the report should, if possible, state who was the aggressor. The report will include the time, place, names of participants, name(s) of aggressor(s), the reason for the fight if it can be ascertained, weapons used if any, names of witnesses, action taken if any, and recommendations to prevent further recurrences.

Comment: Former DP-4217, controlling and reporting fights.

3287. Cell, Property and Body Inspections.

(a) Insofar as possible, a cell, room, or dormitory bed area and locker will be thoroughly inspected immediately upon its vacancy and again, if there is a significant time lapse, before another inmate is assigned to the same cell, room or dormitory bed and locker. Such inspections are required and must be recorded for segregation, isolation and security housing unit cells. The purpose of such inspections is to fix responsibility or the absence of responsibility for security and safety hazards and serious contraband found in the cell, room or dormitory area.

(1) Occupied cells, rooms and dormitory areas, including fixtures and lockers, and any personal and state-issued property of the occupant will be inspected on an infrequent and unscheduled basis. More frequent inspections will be conducted in specialized housing units, depending upon the security requirements of the unit and the risk an individual inmate presents to that security.

(2) Cell and property inspections are necessary in order to detect and control serious contraband and to maintain institution security. Such inspections will not be used as a punitive measure nor to harass an inmate. Every reasonable precaution will be taken to avoid damage to personal property and to leave the inmate's quarters and property in good order upon completion of the inspection.

(3) An inmate's presence is not required during routine inspections of living quarters and property when the inmate is not or would not otherwise be present. During special inspections or searches initiated because the inmate is suspected of having a specific item or items of contraband in his or her quarters or property, the inmate should be permitted to observe the search when it is reasonably possible and safe to do so.

(4) The inmate will be given a written notice for any item(s) of personal and authorized state-issued property removed from his or her quarters during an inspection and the disposition made of such property. The notice will also list any contraband picked up or any breach of security noted during the inspection, and the follow-up action intended by the inspecting officer.

(b) An inmate is subject to an inspection of his or her person, either clothed or unclothed, when there is a substantial reason to believe the inmate may have unauthorized or dangerous items concealed on his or her person, or that he or she may have been involved in an altercation of any kind. Such inspections may also be a routine requirement for inmate movement into or out of high security risk areas. Random or spot-check inspections of inmates may also be authorized by the institution head to prevent possession and movement of unauthorized or dangerous items and substances into, out of, or within the institution. Visual daily inspections of inmates shall be made to ensure compliance with departmental grooming standards. All such inspections shall be conducted in a professional manner which avoids embarrassment or indignity to the inmate. Whenever possible, unclothed body inspections of inmates shall be conducted outside the view of others.

(1) Correctional employees, other than qualified medical staff, shall not conduct unclothed body inspections of inmates of the opposite sex except under emergency conditions with life or death consequences.

(2) Routine inspections of clothed male inmates may be performed by employees of either sex.

(3) Body inspection of clothed female inmates shall be conducted by female correctional employees only, except in emergency situations requiring the immediate search of inmates to avoid the threat of death, escape, or great bodily injury. In such emergency situations, male correctional employees may conduct clothed body inspections only until sufficient numbers of female correctional employees are available to assume critical body search duties.

(4) Male correctional employees shall not, under any circumstances, perform non-emergency body searches of female inmates.

(5) Any inspection of body cavities, other than visual or metal detector inspections, will be conducted in a medical setting under the direct supervision of a physician. Any physical intrusion into body cavities must be performed by a physician, and then only after all less obtrusive methods have failed to bring the inspection to a conclusion.

(c) Inspections of inmate cell or living areas, property, work areas, and body shall be conducted on an unannounced, random basis as directed by the institution head. Such inspections shall be conducted no more frequently than necessary to control contraband, recover missing or stolen property, or maintain proper security of the institution.

(d) A written record shall be maintained of the disposition of contraband and stolen or missing property confiscated as the result of cell, property, or body inspections.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Jordan* v. *Gardner,* 986 F.2d 1521.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment of subsection (a)(3) filed 2-22-79; effective thirtieth day thereafter (Register 79, No. 8).
3. Amendment of subsection (b)(1) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
4. Amendment of subsection (b) and new subsection (c) and (d) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
5. Editorial correction of printing error in subsection (b) (Register 92, No. 5).
6. Amendment of subsections (b) and (c) filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 10-16-97 order transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).

8. Amendment of subsection (b)(1), new subsections (b)(2)–(4), subsection renumbering and amendment of Note filed 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 11-2-2005 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-28-2005 and filed 11-1-2005 (Register 2005, No. 44).

3288. Notice to Public.

(a) Warning signs will be posted at the entrance to all public and business roadways onto the grounds of institutions, camps and other department facilities where inmates or parolees are housed, and at all sally ports and pedestrian entrances into such facilities. The signs will be in both English and Spanish and will, at a minimum, display the following information:

(1) The name of the institution, camp or facility, and the fact that it is a facility of the California Department of Corrections.

(2) The items that cannot be brought onto institution grounds. Model language: It is unlawful to bring alcohol, drugs, weapons, explosives, tear gas or tear gas weapons onto prison property.

(3) A warning that entrance on the property constitutes consent to be searched. Model language: By entering these grounds you consent to the search of your person, property and vehicle.

(b) Entrance roadway signs and the lettering will be of sufficient size to attract attention and be easily read by passing motorists. Smaller but conspicuous signs will be posted at sally ports and pedestrian entrances.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment of subsection (a)(2) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).

3289. Trespass.

(a) All areas of institutions including buildings and grounds are closed to the general public, including employees of the department during their off-duty hours, at all times except for the purpose of conducting lawful business and engaging in activities authorized in advance by the warden, superintendent or official in charge. Entry on institution property for unauthorized purposes will be considered trespass as provided in section 602(j) of the Penal Code.

(b) Without regard for the reasons an individual or group may have entered institution property, refusal or failure to leave the property when requested to do so by the warden, superintendent, official in charge or by an official authorized to act for the warden, superintendent or official in charge, will be considered trespass as provided in section 602(p) of the Penal Code.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 8-1-78 as an emergency; effective upon filing (Register 78, No. 31).
2. Certificate of Compliance filed 11-21-78 (Register 78, No. 47).

3290. Methods for Testing of Controlled Substances or for Use of Alcohol.

(a) The department shall prescribe the products, equipment, and methods for testing suspected controlled substances or for the use of alcohol. ''Field'' or on-site testing shall be conducted only by trained personnel.

(b) Field tests may be performed on any suspected substance found on institution property or in the possession or under the control of any inmate, or in the possession or under the control of persons other than inmates who come on institution property.

(c) The securing of a urine sample from an inmate, for the purpose of testing for the presence of controlled substances or for use of alcohol may be done for the following reasons:

(1) When there is reasonable cause to believe the inmate has possessed, distributed, used, or is under the influence of a controlled substance or alcohol.

(2) When mandatory random testing is known to the inmate to be a condition for the inmate's participation in a specific program, assignment, or activity.

(3) As part of an authorized disposition of a disciplinary hearing.

(4) The inmate is selected by the institution's/facility's random drug testing selection process.

(d) Inmates must provide a urine sample when ordered to do so pursuant to these regulations, for the purpose of testing for the presence of controlled substances or the use of alcohol.

(e) Field testing of seized substances that are suspected of being a controlled substance shall be conducted for ''screening'' purposes only. Disciplinary action for possession of a controlled substance based solely on a field test shall not include the loss of work/behavior credits unless a laboratory has confirmed that the suspected substance is in fact a controlled substance, or the inmate has admitted to possessing the controlled substance, accepts the results of a field test, and waives the requirement of testing by a laboratory, and has signed a document to that effect.

(f) The positive test results from a urine sample submitted for testing for the presence of an unauthorized controlled substance or alcohol that has been confirmed as positive by a departmentally approved testing method may be considered as sufficient evidence to support a guilty finding for use of the controlled substance or alcohol.

(g) When evidence remaining after a field test or resulting from a field test is not suitable or sufficient for submission to a laboratory for confirmation of the field test, the field test results may be considered in a disciplinary hearing for possession of a controlled substance. Under such circumstances, a finding of guilty shall be based upon the preponderance of all evidence presented at the disciplinary hearing. Although no credit loss action may be taken when the only evidence being considered by the hearing official is the result from a field test, other authorized disciplinary actions may be taken pursuant to section 3315 for violations of 3016(a).

(h) The identification of unauthorized medication, to include any medication considered to be a controlled substance as described in section 3000, must be confirmed by a licensed pharmacist and that confirmation may be used as evidence in a disciplinary hearing. There shall be no requirement for laboratory testing of intact medications when identification of the controlled medication has been confirmed by a pharmacist. The pharmacist will indicate whether the medication contains any of the substances listed in Health and Safety Code (H&SC) section 11007 to enable the determination of the appropriate classification level pursuant to section 3323 relative to a disciplinary violation for unauthorized possession or distribution of the medication.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932, 4573.6 and 5054, Penal Code.

HISTORY:

1. Renumbering of former Section 3290 to Section 3295 and new Section 3290 filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Amendment of subsections (a) and (e) and new subsection (h) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).

4. Amendment of subsections (a) and (e) and new subsection (h) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
6. Amendment of subsections (a) and (e) and new subsection (h) filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
8. Amendment of subsections (c), (g), and (h) filed 6-2-95 as an emergency; operative 6-5-95 (Register 95, No. 22). A Certificate of Compliance must be transmitted to OAL by 11-12-95 pursuant to Penal Code section 5058(e)(1) or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-2-95 order transmitted to OAL 10-2-95 and filed 10-17-95 (Register 95, No. 42).
10. Amendment filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day,
11. Amendment refiled 2-3-99 as an emergency, including further amendment of subsection (g); operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 2-3-99 order transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).
13. Amendment of section heading and section filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3291. Employee Law Enforcement and Peace Officer Personnel.

(a) Law Enforcement Responsibility. All employees of the Department shall be responsible to enforce laws, regulations and procedures which govern the actions and activities of inmates, parolees and of persons who come into contact with inmates and parolees. Employees who are not designated as peace officers, whose normal assigned job duties do not require custody and supervision of inmates or parolees, or in situations where it would be inappropriate or unsafe to intervene in unauthorized actions or activities, shall notify or seek the assistance of other employees, including peace officer employees. In an emergency, all employees shall respond as directed by proper authority.

(b) Peace Officer Personnel. Peace officers are departmental employees holding peace officer positions as defined by law or as designated by the director of corrections. Non-peace officer employees temporarily assigned to perform only the administrative duties of positions held by peace officers shall not be designated as peace officers.

(c) The peace officer authority of employees in (b) extends only to the authority necessary to perform the duties assigned to them, and as specifically authorized by the director in state emergency and mutual aid agreements. Employees designated in subsection 3291(b) are peace officers when performing the duties of their employment within this State, and retain that status outside this State when they are transporting prisoners or apprehending of prisoners who have escaped.

(d) In addition to being designated peace officers as described in subsections 3291(b) and (c), parole agents' peace officer authority extends to the enforcement of conditions of parole imposed upon persons on parole in this state and to violations of any penal provisions of law which is discovered in the course of their employment.

(e) In addition to being designated peace officers as described in subsections 3291(b) and (c), the peace officer authority of agents of the Office of Correctional Safety peace officers extends throughout the state while performing their primary job duties, including the investigation and apprehension of parole violators and the investigation of the violation of any penal provisions of law which is discovered in the course of their employment, and to coordination of the Department's law enforcement activities with those of other law enforcement and criminal justice agencies.

(f) In addition to being designated peace officers as described in subsections 3291(b) and (c), the authority of peace officer members of the Office of Internal Affairs, who meet the training standards described in PC Section 830.2(d)(2), extends throughout the state while they are performing their primary job duties, including criminal investigations of departmental personnel and the coordination of those activities with other criminal justice agencies.

NOTE: Authority cited: Sections 830.5(f) and 5058, Penal Code. Reference: Sections 830.2(d) and 830.5(a) and (b), Penal Code.

HISTORY:

1. New section filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
2. Amendment of subsection (b) filed 12-18-80 as an emergency; effective upon filing (Register 80, No. 51). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-17-81.
3. Order of Repeal of 12-18-80 order filed 12-26-80 by OAL pursuant to Government Code Section 11349.6 (Register 80, No. 52).
4. Amendment of subsection (b) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
5. Amendment of subsection (b) filed 10-27-82; effective thirtieth day thereafter (Register 82, No. 44).
6. Amendment of section heading, section and Note filed 2-14-2001; operative 3-16-2001 (Register 2001, No. 7).
7. Change without regulatory effect amending subsections (a)–(c) and (e) filed 4-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 16).

3292. Arrest and Detention.

(a) It is the policy of the department to arrest and detain civilians only when their unlawful actions or activities present an immediate and significant threat to the custody and control of inmates, parolees, employees and the public.

(b) It is the policy of the department to only effect the arrest and detention of a civilian when there is sufficient cause to believe that the individual's unlawful action or activity is deliberate and intended for a purpose described in (a). Suspicion of unlawful actions or activities will not be cause for the arrest and detention of an individual, but may be cause for ordering or escorting the individual off departmental property or institution grounds, and for referral to local authorities.

(c) Wardens, superintendents and administrators of institutions and facilities which house inmates or parolees will establish and maintain up-to-date local procedures reflecting the policies set forth in this section. Such local procedures will include provisions for informing individuals of their rights and for referral of cases to local authorities. Such procedures will be reviewed annually by the administrator, and will be made available for departmental audit and for inspection as a public record when requested.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).

3293. Polygraph Examinations.

(a) Polygraph examinations may be administered by departmental staff to inmates, parolees, and employees in the course of an investigation of official matters, under the following conditions:

(1) The examinee has, without coercion, signed a written statement of consent to the examination.

(2) The polygraph examiner is a Office of Correctional Safety staff member.

(3) The Assistant Secretary or designee, Office of Correctional Safety, has approved the examination.

(b) Polygraph examinations shall not be used as an alternative to regulatory requirements for determining a person's guilt or innocence of charges in disciplinary matters.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 3307, Government Code; Section 5054, Penal Code; and *Long Beach City Employee's Association* v. *City of Long Beach* (1986) 41 Cal.3rd 937, 227 Cal.Rptr. 90.

HISTORY:

1. New section filed 2-27-89; operative 3-29-89 (Register 89, No. 10).
2. Change without regulatory effect of subsections (a) and (b) pursuant to section 100, title 1, California Code of Regulations filed 2-21-90 (Register 90, No. 11).
3. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).
4. Change without regulatory effect amending subsections (a)(2) and (a)(3) filed 4-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 16).

3294.1. Inmate Operation of a Motor Vehicle.

Notwithstanding provisions of the Vehicle Code, inmates shall not drive any vehicle on a public road except in extreme emergency, when taking a Department of Motor Vehicles' Driver's test, or when their use of a personal vehicle is specifically authorized. Inmates may drive a state vehicle on off highway work projects or on facility grounds only when specifically authorized by staff or by the inmate's work supervisor.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 4570 and 5054, Penal Code.

HISTORY:

1. Renumbering of former section 3073 to new section 3294.1, including amendment of section and section heading filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3294.5. Inmate Name Change.

(a) All inmate or parolee requests for a legal name change shall initially be reviewed by the Warden or Regional Parole Administrator who shall either recommend approval for a legal name change or deny the request for a legal name change.

(b) If the request is denied, the Warden or Regional Parole Administrator shall respond to the inmate or parolee in writing with the reasons for denial. A copy of the denial shall be placed in the miscellaneous section of the inmate/parolee's central file.

(c) If the Warden finds reasons that exist to warrant an inmate's request for a name change, then the Warden shall forward the request to the Institutions Division Regional Administrator, along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the inmate's central file.

(d) If the Regional Parole Administrator finds reasons that exist to warrant a parolee's request for a name change, then the Regional Parole Administrator shall forward the request to the Assistant Deputy Director, Parole and Community Services Division (P&CSD), along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the parolee's central file.

(e) If the Institutions Division Regional Administrator or the Assistant Deputy Director, P&CSD, agrees with the recommendation to approve the request for a name change of an inmate or parolee, a letter shall be forwarded to the court explaining why the Department is recommending approval for a name change, along with the inmate/parolee's request. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.

(f) If the Institutions Division Regional Administrator or the Assistant Deputy Director, P&CSD, denies the request for a name change of an inmate or parolee, a letter shall be forwarded to the inmate or parolee with the reasons for denial. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.

(g) Upon receiving final approval from the court with the ordered name change and receiving departmental approval, the Correctional Case Records Manager shall notify the facility mailroom and visiting room of the name change if the offender is incarcerated; or shall notify the agent of record if the offender is on parole. The court order shall be placed in the miscellaneous section of the inmate/parolee's central file, along with other documents related to the request for a name change.

(h) The mailroom and visiting room staff of the facility shall update their records to reflect the additional name of the inmate.

(i) The original commitment name of the inmate or parolee shall remain on all departmental records and shall continue to be used on all departmental records.

(j) The new legal name change shall be entered into the Offender Based Information System (OBIS) under the section "Also Committed As."

(k) The inmate shall be notified to inform all persons who may visit or write him/her that they must use the inmate's departmental identification number when using the inmate's new name.

(*l*) If the court ordered name change is received without departmental approval, this clearly indicates that the inmate/parolee has not followed proper procedure to legally change his/her name. In this case, the Warden or Regional Parole Administrator shall notify the issuing court in writing that the name change cannot legally be changed without the Director's approval pursuant to the Code of Civil Procedure, section 1279.5. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file and a copy shall be provided to the inmate/parolee.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code; section 1279.5, Code of Civil Procedure.

HISTORY:

1. New section filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-3-95 order including amendment of subsection (*l*) transmitted to OAL 5-3-95 and filed 6-14-95 (Register 95, No. 24).

Article 3. Escapes

3295. Duty of Employees to Prevent Escapes.

It is the duty of every employee to do everything possible to prevent the escape of an inmate.

Comment: Former DP-4301, duty of employees to prevent escapes.

HISTORY:

1. Renumbering of section 3290 to section 3295 filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).

3296. Escape Pursuit Plan.

Each warden and superintendent must have in effect at all times a plan of operations for the reporting of escapes, and for the pursuit and apprehension of escapees. Each employee must be instructed in the general and special procedures that he or she is to follow. Such plans must be in writing and be reviewed annually by the warden or superintendent.

Comment: Former DP-4302, escape pursuit plan.

HISTORY:
1. Renumbering of section 3291 to section 3296 filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).

3297. Air Space Management.

(a) Staff and inmates shall be notified and warning signs posted to indicate that any inmate who without authorization moves toward an aircraft on or near facility property may be fired upon to prevent an escape.

(b) If an aircraft enters a facility's air space for an apparent escape attempt, staff shall act to prevent any escape.

(1) Firearms shall not be used to bring down or disable an aircraft in flight.

(2) If the aircraft is on the ground on or near facility property, staff shall take any action necessary, including use of firearms, to disable the aircraft.

(3) Return fire may be directed at an attacker within an aircraft if no other means is available to save the lives of innocent or uninvolved persons.

(4) Inmate failure to comply with orders to move away from any grounded aircraft shall be considered an attempt to escape.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 835a and 5054, Penal Code.

HISTORY:
1. New section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.

Article 4. Disorders and Emergencies

3300. Prevention of Disorders.

It is the duty of every employee to do everything possible to prevent disorders. Each employee must be trained to be familiar with the procedures for handling disorders. Disorders and other emergencies must be reported to supervisory staff at the earliest possible moment. Whenever a disorder occurs, a prompt investigation will be made by the warden or superintendent.

Comment: Former DP-4401, prevention of disorders.

3301. Disturbance Control Plan.

Each warden or superintendent must have in effect at all times a plan, approved by the director, for meeting emergencies, such as riots, strikes, attacks upon inmates, visitors or staff, explosions or fires, suicides or attempted suicides, and accidental injuries to inmates or visitors or employees. This plan must include procedures for requesting assistance from outside the institution when circumstances warrant.

Comment: Former DP-4402, disturbance control plan.

3302. Emergency Preparedness Plan.

(a) Each warden and superintendent must have in effect at all times a plan approved by the director for meeting emergencies delineated and required by the California Emergency Services Act of 1970.

(b) This plan will include, as a minimum, emergency measures to be taken to prepare for and respond to the following types of emergency situations:

(1) War.
(2) Earthquakes.
(3) Seismic sea waves;
(4) Flood;
(5) Fire;
(6) Civil Disturbances;
(7) Accident, transportation-industrial, and;
(8) Pollution.

(c) A separate Employee Protection Plan will be developed in accordance with the California Emergency Services Act. Two copies of this plan will be attached to the emergency preparedness plan when that plan is submitted to the director for approval.

(d) Emergency preparedness plans and the employee protection plan will be revised and updated by the warden or superintendent and be submitted to the director for approval biennially.

HISTORY:
1. Amendment filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).

3303. Safety and Security.

Institution heads shall maintain procedures for controlling the following safety and security hazards within facilities:

(a) Fire prevention and suppression.

(1) Mattresses, cushions, and pads shall not be used in the living areas of departmental facilities unless they are certified by the manufacturer as meeting the bureau of home furnishings' Technical Information Bulletin Number 121.

(2) Noncombustible receptacles shall be provided in inmate living areas for disposal of such forms of refuse as cans, paper, and dust, and the disposal of flammable liquids and rags shall be in accordance with the uniform fire code.

(3) Facilities with female inmates shall have a complement of female firefighters assigned to its fire department.

(4) Staff and inmates shall be familiar with fire evacuation routes, exits, and procedures. An evacuation drill shall be conducted quarterly on each watch. Where such drill would jeopardize personal safety or facility security, staff shall conduct a walk-through of the procedures.

(5) A facility's mutual aid participation shall not jeopardize the facility or violate minimum safety standards.

(b) Control of harmful physical agents and toxic or hazardous substances.

(1) No staff member or inmate shall use or handle harmful physical agents and toxic or hazardous substances as defined in 8 CCR, subchapter 7, Sections 3204(c)(13) and 5194(c), until trained in the safe handling of and emergency procedures for the use and handling of such agents or substances.

(2) Except for authorized use of gasoline, inmates shall not, without direct staff supervision, have access to harmful physical agents and hazardous or toxic substances, or the inventories of such agents or substances.

(c) Control of tools.

(d) Control of armory and armaments, including firearms, ammunition, chemical agents, and any explosives under the institution's control.

(e) Control of keys and security locking devices.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment of subsection (b) and new subsections (b)(1)–(2) and Note filed 8-21-92; operative 9-21-92 (Register 92, No. 34).
3. Amendment of first paragraph and adoption of subsections (a)(1)–(5) and form filed 11-10-93; operative 12-22-93 (Register 93, No. 46).

DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF HOME FURNISHINGS

TECHNICAL BULLETIN NO. 121

FLAMMABILITY TEST PROCEDURE FOR MATTRESSES FOR USE IN HIGH RISK OCCUPANCIES

I. Scope

1. This test procedure is designed to test mattresses for use in occupancies that are identified as high risk. Such facilities might include, but are not limited to, jails, prisons, penal institutions, correctional facilities, juvenile detention centers, nursing homes, and health care facilities.

2. This test procedure is not intended to be used for the evaluation of residential mattresses.

II. Test Facility

(a) The described test procedure is a full-scale fire test. Small-scale fire test methods cannot be substituted for the described procedure.
(b) The test burn room shall be 12 x 10 feet or a close approximation with an 8 foot ceiling height. The room shall have no openings other than a doorway opening approximately 38 x 81 inches, located as indicated in Figure 1.
(c) The test burn room shall be instrumented to monitor temperature, carbon monoxide concentration, and mattress weight loss.
(d) The test room shall be unfurnished except for a mattress support that shall closely resemble a penal institution mattress spring unit, approximately 31 x 77 inches.
(e) The mattress spring unit shall be positioned as indicated in Figure 1.

III. Test Sample

The test sample shall consist of a typical institutional mattress, complete with cover, with approximate dimensions 30 x 76 inches and with thickness appropriate to the application.

IV. Test Conditioning

The test mattress and newsprint shall be conditioned for at least 48 hours prior to test at 70 ± 5°F and a relative humidity of less than 55%. Test materials shall be tested within 10 minutes of removal from such condition if test room conditions differ from the above.

V. Test Ignition Source

(a) The test ignition source shall be a galvanized metal container with ten (10) double sheets of loosely wadded newspaper.
(b) The dimensions of the metal container shall be approximately 10 inches high, 12-1/2 inches top diameter, and 9 inches bottom diameter.
(c) Each newsprint double sheet shall have the dimensions of 23 x 28 inches and an approximate weight of 18.5 ± 0.5 grams.
(d) The newsprint shall be positioned in the container so that it is approximately level with the top of the container.

VI. Test Procedure

(a) Place a weighed, conditioned, complete mattress on the spring support in a flat horizontal position as indicated in Figure 1.
(b) The entire mattress and support system shall be assembled on a device capable of monitoring the weight loss of the mattress during combustion.
(c) Position a thermocouple directly over the geometric center of the horizontal mattress surface and 1 inch below the ceiling.
(d) Place the newsprint filled metal container beneath the mattress and support such that the center of the container is at the geometric center of the bottom mattress surface.
(e) The height of the mattress support shall be adjusted so that the bottom surface of the mattress is 3 ± 1/4 inches above the top of the metal container.
(f) Start monitoring instrumentation. Ignite the newsprint with a match and allow combustion to continue until either:

1. All combustion has ceased; or
2. At least ten percent by weight of the mattress has been consumed.

VII. Test Criteria

A mattress fails to meet the requirements of this test procedure if any of the following criteria are exceeded:

1. Greater than ten (10) percent weight loss in the first ten (10) minutes of the test.
2. A temperature of 500°F or greater at the thermocouple above the test mattress at any time during the test.
3. Carbon monoxide concentration in excess of 1,000 p.p.m. at any point in the test room at any time during the test.

VIII. Caution

Full-scale fire tests can be dangerous. All tests should be supervised by experienced test personnel. Adequate fire suppression equipment and self-contained breathing devices must be available for test personnel. Products of combustion can be irritating and dangerous, therefore, test personnel must avoid exposure to smoke and gases produced during testing as much as possible. Full-scale fire tests should never be left unattended. Test personnel must be certain upon completion of the test that combustion is totally suppressed.

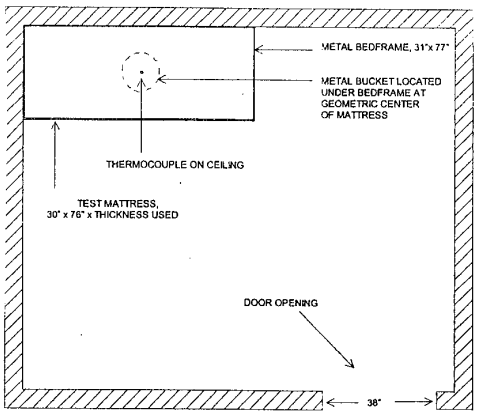


Figure 1

BURN ROOM FOR TESTING MATTRESSES FOR HIGH RISK OCCUPANCIES

3304. Hostages.

Employees must not permit inmates or others to use hostages to escape from custody or otherwise interfere with orderly institutional operations. Hostages will not be recognized for bargaining purposes. All inmates, visitors and staff will be informed of this regulation.

Comment: Former DP-4405, hostages.

Article 5. Inmate Discipline

3310. Definitions.

The following terms are defined for the purposes of this article:

(a) Camp means the type of subfacility of an institution which is normally located in a rural area and which has no secure (fenced or walled) perimeter. Camp inmates are generally assigned to conservation and/or road details.

(b) Community-access facility means a facility located in the community, administered by the Parole and Community Services Division, where inmates have access to the community for work or training and which has no secure (fenced or walled) perimeter.

(c) Community correctional facility means a facility located in the community, administered by the Parole and Community Services Division, where inmates do not have unsupervised access to the community and which has a secure (fenced) perimeter.

(d) Experienced means a permanent employee at the designated level, certified by the Chief Disciplinary Officer (CDO) or designee as competent to serve as a senior hearing officer or hearing officer, as specified. Requirements for certification shall include in-service or on-the-job training in disciplinary procedures and observation of five serious/administrative disciplinary hearings. A probationary, limited term, or training and development employee at the designated staff level may be certified as experienced. Acting staff whose permanent position is at a level lower than that required shall not be assigned senior hearing officer/hearing officer responsibility.

(e) Facility means any institution; community-access facility or community correctional facility; or any camp or other subfacility of an institution under the jurisdiction of the department.

(f) Institution means a large facility or complex of subfacilities with a secure (fenced or walled) perimeter headed by a warden.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 6252 and 6260, Penal Code.

HISTORY:

1. Amendment of article 5 heading, repealer and new section filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
2. Amendment of subsection (d) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3311. Reporting Rule Violations.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).
2. Repealer filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

3312. Disciplinary Methods.

(a) Inmate misconduct shall be handled by:

(1) Verbal Counseling. Staff may respond to minor misconduct by verbal counseling. When verbal counseling achieves corrective action, a written report of the misconduct or counseling is unnecessary.

(2) Custodial Counseling Chrono. When similar minor misconduct recurs after verbal counseling or if documentation of minor misconduct is needed, a description of the misconduct and counseling provided shall be documented on a CDC Form 128-A, Custodial Counseling Chrono. A copy of the completed form shall be provided to the inmate and the original placed in the inmate's central file. Disposition of any contraband involved shall be documented in the CDC Form 128-A.

(3) Rules Violation Report. When misconduct is believed to be a violation of law or is not minor in nature, it shall be reported on a CDC Form 115 (Rev. 7/88), Rules Violation Report.

(A) Unless an inmate charged with serious misconduct requires temporary administrative segregation pursuant to section 3335(b) pending adjudication of the disciplinary charges, the inmate may be retained in regularly assigned housing, work, and program assignments.

(B) If the inmate is placed in segregated housing pending the disciplinary proceedings, the official making the housing decision shall ensure compliance with the provisions of article 7 of this subchapter.

(b) Chief Disciplinary Officer Review of Disciplinary Actions. All disciplinary methods and actions shall be reviewed by the chief disciplinary officer, who shall be the institution head or a designee not below the level of correctional administrator or parole administrator I.

(1) The chief disciplinary officer shall affirm, reverse or modify the disciplinary action and/or credit forfeiture. The chief disciplinary officer may order a different action, order a different method of discipline, dismiss a charge, order a rehearing of the charge, or combine any of these actions.

(2) Except upon discovery of information or evidence not available or reasonably discoverable at the time of a disciplinary action, an order for a different method of discipline or for rehearing of the charges shall not result in a greater penalty or more severe action than that originally taken.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment of subsection (c) filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).
3. Repealer of subsections (c) and (d) and new subsections (c), (d), (e), and (f) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
4. Amendment of subsection (d) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code section 11346.2(d) (Register 83, No. 19).
5. Amendment of subsection (b) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
6. Editorial correction of printing errors in CDC Forms 115 and 115-A and descriptive text (Register 92, No. 5).
7. Amendment including relocation of former subsections 3317(a)–(b)(2) to subsections 3312(a)(3)(A)–(B) filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

CDC NUMBER	INMATE'S NAME	RELEASE/BOARD DATE	INST	HOUSING NO	LOG NO

VIOLATED RULE NO(S)	SPECIFIC ACTS	LOCATION	DATE	TIME

CIRCUMSTANCES

REPORTING EMPLOYEE (Typed Name and Signature)	DATE	ASSIGNMENT	RDO'S
▶			

REVIEWING SUPERVISOR'S SIGNATURE	DATE	☐ INMATE SEGREGATED PENDING HEARING
▶		DATE _____ LOC _____

CLASSIFIED	OFFENSE DIVISION	DATE	CLASSIFIED BY (Typed Name and Signature)	HEARING REFERRED TO
☐ ADMINISTRATIVE ☐ SERIOUS	_____		▶	☐ HO ☐ SHO ☐ SC ☐ FC

COPIES GIVEN INMATE BEFORE HEARING

	BY (STAFF'S SIGNATURE)	DATE	TIME	TITLE OF SUPPLEMENT		
☐ CDC 115	▶					
☐ INCIDENT REPORT LOG NUMBER _____	BY (STAFF'S SIGNATURE) ▶	DATE	TIME	BY (STAFF'S SIGNATURE) ▶	DATE	TIME

HEARING

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY (TYPED NAME)	SIGNATURE	DATE	TIME
	▶		

REVIEWED BY (SIGNATURE)	DATE	CHIEF DISCIPLINARY OFFICER'S SIGNATURE	DATE
▶		▶	

	BY (STAFF'S SIGNATURE)	DATE	TIME
☐ COPY OF CDC 115 GIVEN INMATE AFTER HEARING	▶		

CDC 115 (7/88)

SAMPLE

STATE OF CALIFORNIA
CDC 115 (7/88)

DEPARTMENT OF CORRECTIONS

SAMPLE

SUMMARY OF DISCIPLINARY PROCEDURES
(See California Code of Regulations, Article 5 for details)

ADMINISTRATIVE VIOLATIONS

HEARING

A disciplinary hearing will normally be held within 30 days, but not less than 24 hours from the date you receive your copy of the CDC 115 violation report. You have the right to a fair hearing, but do not have the same procedural rights described for a serious rule violation. *(CCR 3314 - 3320)*

DISPOSITION

At the end of the hearing, you will be advised of the findings and disposition of the charge. Within five working days, following review of the CDC 115 by the Chief Disciplinary Officer, you will be given a copy of the completed rule violation report, which will contain a statement of the findings and disposition and the evidence relied upon to support the conclusions reached. *(CCR 3320)*

APPEAL

If you are dissatisfied with the process, findings or disposition, you may submit an inmate appeal, form CDC 602, within fifteen days following receipt of the finalized copy of the CDC 115. When filing your appeal, be sure to attach a copy of the finalized CDC 115 and any other pertinent documentation.

ABBREVIATIONS

HO - Hearing Officer; SC - Sub Committee; FC - Full Committee; SHO - Senior Hearing Officer; BPT Board of Prison Terms.

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

SERIOUS RULES VIOLATION REPORT

CDC NUMBER	INMATE'S NAME	VIOLATED RULE NO(S).	DATE	INSTITUTION	LOG NO.

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☐ NO

POSTPONEMENT OF DISCIPLINARY HEARING

☐ I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution. — INMATE'S SIGNATURE ▶ — DATE

☐ I REQUEST my hearing be postponed pending outcome of referral for prosecution. — INMATE'S SIGNATURE ▶ — DATE

DATE NOTICE OF OUTCOME RECEIVED — DISPOSITION

☐ I REVOKE my request for postponement — INMATE'S SIGNATURE ▶ — DATE

STAFF ASSISTANT

STAFF ASSISTANT ☐ REQUESTED ☐ WAIVED BY INMATE — INMATE'S SIGNATURE ▶ — DATE

☐ ASSIGNED — DATE — NAME OF STAFF

☐ NOT ASSIGNED — REASON

INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE ☐ REQUESTED ☐ WAIVED BY INMATE — INMATE'S SIGNATURE ▶ — DATE

☐ ASSIGNED — DATE — NAME OF STAFF

☐ NOT ASSIGNED — REASON

EVIDENCE/INFORMATION REQUESTED BY INMATE

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

☐ REPORTING EMPLOYEE ☐ STAFF ASSISTANT ☐ INVESTIGATIVE EMPLOYEE ☐ OTHER _____ ☐ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
	☐	☐		☐	☐
	☐	☐		☐	☐

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

INVESTIGATOR'S SIGNATURE ▶ — DATE

☐ COPY OF CDC 115-A GIVEN INMATE — BY (STAFF'S SIGNATURE) ▶ — TIME — DATE

CDC 115-A (7/88) 88 86095

— If additional space is required use supplemental pages —

SAMPLE

SUMMARY OF DISCIPLINARY PROCEDURES AND INMATE RIGHTS
(See Title 15, California Code of Regulations for details)

A **HEARING** — A serious rule violation may result in the loss of credits A hearing will normally be held within thirty (30) days but not less than 24 hours, from the date you receive a copy of the Rules Violation Report An exception is provided in the California Code of Regulations when a case has been referred for possible prosecution and you have requested, in writing, and been granted, a postponement pending the outcome of such referral Failure of staff to meet time constraints will usually act as a bar against denial or forfeiture of time credits, but will not bar against other authorized disciplinary actions *(CCR 3320)*

B **INVESTIGATIVE EMPLOYEE/STAFF ASSISTANCE** —

1 *General Information* — You may request to have an investigative employee and/or a staff assistant assigned to assist you in the investigation, preparation, or presentation of your defense at the disciplinary hearing if it is determined by staff that (1) you are illiterate, or (2) the complexity of the issues, or (3) your confinement status makes it unlikely that you will be able to collect and present the evidence necessary for an adequate comprehension of your case *(CCR 3315, 3318)*

2 *Staff Assistant* — A staff member will be assigned to assist you in the disicplinary process if you are deemed to be incapable of representing yourself The assigned staff will assist you in preparing for the hearing and assist you at the hearing The staff assistant will maintain any confidence you request about your past conduct *(CCR 3318)*

3 *Investigative Employee* — An investigative employee, if assigned, will gather information, question staff and inmates, screen witnesses, and complete and submit a written, non-confidential report to the disciplinary hearing officer You have the right to receive a copy of the investigative employee's report 24 hours before a hearing is held *(CCR 3318)*

4 *Witnesses* — You may request the presence of witnesses at the hearing who can present facts related to the charges against you You may also request the presence of the reporting employee and the investigative employee You may, under the direction of the hearing officer, question any witness present at the hearing The hearing officer may deny the presence of witnesses when specific reasons exist *(CCR 3315)*

5 *Personal Appearance* — A hearing on the charges will not normally be held without your presence, unless you refuse to attend *(CCR 3320)*

C **REFERRAL FOR PROSECUTION** — Referrals for prosecution will not delay a disciplinary hearing unless you submit a request in writing for postponement of the hearing pending the outcome of such referral You may revoke such request in writing at any time prior to the filing of accusatory pleadings by the prosecuting authority A disciplinary hearing will be held within 30 days of staff receiving your written revocation of your request to postpone the hearing or within 30 days of receiving a response from the prosecuting authority *(CCR 3316 3320)*

You have the right to remain silent at a disciplinary hearing and no inference of guilt or innocence will be drawn from your silence Any statements you do make may be used against you in criminal proceedings

D **DISPOSITION** — At the end of the hearing, you will be advised of the findings and disposition of the charge Within five working days, following review of the CDC 115 and CDC 115-A by the Chief Disciplinary Officer, you will be given a copy of the completed rule violation report, which will contain a statement of the findings and disposition and the evidence relied upon to support the conclusions reached *(CCR 3320)*

E **APPEAL** — If you are dissatisfied with the process, findings or disposition, you may submit an inmate appeal, form CDC 602, within fifteen days following receipt of the finalized copy of the CDC 115/CDC 115-A When filing your appeal, be sure to attach a copy of the finalized CDC 115/CDC 115-A, if applicable, and any other pertinent documentation *(CCR 3003)*

F **ABBREVIATIONS** — HO Hearing Officer, SC-Sub Committee, FC-Full Committee, SHO-Senior Hearing Officer; BPT-Board of Prison Terms

SAMPLE

3313. Classification of Rules Violation Report and Notice of Pending Charges.

(a) Each CDC Form 115 shall be classified by designated staff not below the level required to conduct serious disciplinary hearings. Exception: In facilities with only one individual at the rank of correctional lieutenant or higher, an experienced correctional sergeant may classify rule violations.

Reports shall be classified as administrative or serious pursuant to sections 3314 and 3315.

(1) A CDC Form 804 (Rev. 08/00), Notice of Pending CDC-115, shall be completed by the classifying official and forwarded, with a copy of the CDC Form 115 attached, to Case Records within 48 hours of the inmate being charged with a serious level offense (Division ''F'' through ''A-1''). Case Records staff shall file the CDC Form 804 with an attached copy of the CDC Form 115 in the inmate's Central File (C-File) within one working day of receipt in the Case Records office.

(A) For parole violators who are charged with any Division ''A'', ''B'', or ''C'' offense, or any inmate who refuses to sign general and/or special conditions of parole or any form required by the Department of Justice explaining his/her responsibility to register under Penal Code section 290, Case Records staff shall ensure that the C-File containing the CDC Form 804 and attached copy of CDC Form 115 be expedited to the Classification and Parole Representative to ensure revocation or revocation extension processes are initiated.

(b) Staff who review or classify a CDC Form 115 shall not serve as the disciplinary hearing official for that rule violation.

(c) The classification of a CDC Form 115 may be changed as follows:

(1) Before the disciplinary hearing, the official who initially classified a CDC Form 115 or staff at a higher level may change the classification of the CDC Form 115.

(2) During the disciplinary hearing, the official conducting the hearing may reduce a serious classification to administrative as a finding of the hearing if the reduced charge meets the criteria of an administrative violation as described in section 3314.

(3) After the disciplinary hearing, the chief disciplinary officer may reduce a serious classification to administrative if the reduced charge meets the criteria of an administrative violation as described in section 3314.

(4) After the disciplinary hearing, an administrative classification shall not be changed to serious unless the chief disciplinary officer or director orders a rehearing of the charges as a serious rule violation.

(A) When a rehearing is ordered by the chief disciplinary officer or director, the inmate shall be provided all rights and procedural safeguards of a serious rule violation hearing.

(B) An order for a rehearing shall be in writing and shall include the reasons for the order. A copy of the order shall be provided to the inmate.

(C) Time limitations relative to the re-issued CDC Form 115 shall commence on the date the chief disciplinary officer issues the order to re-hear pursuant to section 3320(a). Credit forfeiture will not be allowed if the time limitations were violated on the original CDC Form 115 that was ordered re-issued/re-heard.

(5) If the CDC Form 115 is reclassified from administrative to serious, the inmate shall receive written notice and shall be subject to the provisions of Section 3315 of these regulations.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2932 and 5054, Penal Code; In re Hamilton (1991) 230 Cal.App.3d 1592, 281 Cal. Rptr. 900.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. Repealer and new section filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
4. Amendment of subsection (c) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
5. Amendment of section heading, section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
6. Change without regulatory effect amending Note filed 11-10-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 46).
7. Editorial correction establishing correct hierarchy for subsection designators (Register 2000, No. 23).
8. Amendment of subsection (b) filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsection (b) refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
11. New subsections (a)(1) and (a)(1)(A), amendment of subsections (c)(2)–(3) and new subsection (c)(4)(C) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3314. Administrative Rule Violations.

(a) Inmate misconduct reported on a CDC Form 115 shall be classified administrative if:

(1) The misconduct does not constitute a misdemeanor offense, except as provided in (3) below.

(2) It does not involve any of the following circumstances:

(A) The use or threat of force or violence against another person.

(B) A breach of or hazard to facility security.

(C) A serious disruption of facility operations.

(D) The introduction, use, or possession of controlled substances or alcohol.

(E) Possession of dangerous contraband.

(F) Continued failure to meet program expectations.

(G) Any felony offense.

(3) Administrative rule violations include but are not limited to:

(A) Possession of property, materials, items, or substances in excess of authorized limits, or possession of contraband other than controlled substances or dangerous contraband.

(B) Misuse of food.

(C) Out-of-bounds presenting no threat to facility security.

(D) Misuse of telephone privileges presenting no threat to facility security.

(E) Mail or visiting violations presenting no threat to facility security.

(F) Failure to meet work or program expectations within the inmate's abilities.

(G) Late for or absent without authorization from a work or program assignment.

(H) Use of vulgar or obscene language.

(I) Failure to follow an itinerary when on temporary community leave from a community-access facility.

(J) Under the influence (use) of alcoholic beverages, drugs, or intoxicants in a community-access facility.

(K) Failure to comply with departmental grooming standards.

(b) Administrative rule violations shall be heard by a disciplinary hearing official not below the level of a correctional lieutenant, or an experienced correctional counselor I, parole agent I or correctional sergeant.

(c) The inmate does not have the right to call witnesses or to have an investigative employee assigned.

(d) If deemed necessary by the hearing official, the hearing shall be suspended and the inmate shall be provided staff assistance pursuant to section 3318(b).

(e) The hearing official may find the inmate guilty and order one or more of the following dispositions:

(1) Counseling, with or without a reprimand.

(2) Suspension of privileges specified by the hearing official for no more than a 30-day period starting the date the rule violation report was adjudicated, except as authorized in section 3314(e)(10).

(3) Placement into privilege group B or C for no more than a 30-day period starting the date the rule violation report was adjudicated.

(4) Confinement to quarters pursuant to section 3333 for one or more weekends and/or holidays, not to exceed ten days and not to be imposed with subsection (6) or suspended confinement.

(5) Assignment to no more than 40 hours of extra duty.

(6) Confinement to quarters for a period not to exceed five consecutive days. Inmates serving confinement to quarters shall be released to attend work and program assignments.

(7) Placement of a restriction or hold on the inmate's trust account for rule violations involving state or personal property as described in section 3190 when the inmate refuses to pay for the repair or replacement of such property or canteen.

(8) Suspension of all or part of any disposition for up to 90 days based on the inmate's acceptance of and compliance with conditions specified for suspension of the disposition.

(9) Imposition of all or part of an existing suspended disposition when the current rule violation is also a violation of conditions imposed at the time of the suspension.

(10) Inmates placed in ASU, SHU, PSU, Privilege Group D , who are found guilty of any RVR deemed administrative per this section are subject to temporary loss of entertainment appliances as follows:

A. Thirty days for the first offense

B. Sixty days for the second offense.

C. Ninety days for the third offense.

(f) The hearing official may find the inmate guilty of the charge but, in the interest of justice or because of extenuating circumstances, dismiss the formal rule violation charge and report the misconduct as a custodial counseling on a CDC Form 128-A pursuant to section 3312. In such cases the CDC Form 115 shall be processed pursuant to section 3326.

(g) The hearing official may find the inmate not guilty and dismiss the charges.

(h) The hearing official may designate the rule violation serious if it is determined in the fact-finding phase of an administrative violation hearing that the misconduct is a serious rule violation. The disciplinary hearing official shall terminate the hearing and issue a serious CDC Form 115 to the inmate.

(i) Classification Committee Review. When the hearing official determines that an inmate is a program failure, as defined in section 3000, the hearing official shall refer the administrative disciplinary action for possible review by a classification committee to affirm or modify the inmates program, work/privilege group, or housing assignment.

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

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. Amendment of subsection (d)(2) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
4. Amendment of subsections (a) and (d)(5) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
5. Amendment filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
6. New subsection (a)(3)(L) filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 10-16-97 order transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
8. Amendment filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
9. Amendment of section, including further amendment of subsection (e)(4), refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
11. Amendment of subsections (c)(2)(D)–(E), new subsections (c)(2)(F)–(G), repealer of subsection (c)(3)(A), subsection relettering, amendment of subsection (e)(2) and new subsections (e)(10)–(e)(10)C. filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3315. Serious Rule Violations.

(a) Inmate misconduct reported on a CDC Form 115 shall be classified serious if:

(1) It is a serious disciplinary offense not specified as administrative in section 3314(a)(3), an offense punishable as a misdemeanor, whether or not prosecution in undertaken, or is a felony, whether or not prosecution is undertaken.

(2) It involves any one or more of the following circumstances:

(A) Use of force or violence against another person.

(B) A breach of or hazard to facility security.

(C) A serious disruption of facility operations.

(D) The introduction, distribution, possession, or use of controlled substances, alcohol, or dangerous contraband.

(E) An attempt or threat to commit any act listed in (A) through (D), coupled with a present ability to carry out the threat or attempt if not prevented from doing so.

(3) Serious rule violations include but are not limited to:

(A) Misconduct reportable to the inmate's releasing authority.

(B) Theft, embezzlement, destruction, or damage to another's personal property or state property amounting to more than $50.

(C) Hideout, preparation to escape, or possession of escape paraphernalia.

(D) Tattooing or possession of tattoo paraphernalia.

(E) Manufacture of alcohol or possession of any controlled substance, unauthorized drug, intoxicant, or illegal substance.

(F) Being under the influence or use of alcoholic beverages, controlled substances, unauthorized drugs or intoxicants in an institution, community correctional facility, or camp.

(G) Possession of five dollars or more without authorization.

(H) Acts of disobedience or disrespect which by reason of intensity or context create a potential for violence or mass disruptive conduct.

(I) Willfully inciting others to commit an act of force or violence.

(J) Refusal to perform work or participate in a program as ordered or assigned.

(K) Recurring failure to meet work or program expectations within the inmate's abilities when lesser disciplinary methods failed to correct the misconduct.

(L) Participation in a strike or work stoppage.

(M) A repeated pattern of administrative rule violations for the same offense.

(N) Mail or visiting violations presenting a threat as described in (2) above.

(O) Harassment of another person, group, or entity either directly or indirectly through the use of the mail or by any other means.

(P) Throwing any liquid or solid substance on a nonprisoner.

(Q) Unauthorized possession of departmental records or documents which could affect any inmate's release status.

(R) Refusal to submit to a test for controlled substances or alcohol.

(S) Refusal to provide blood specimens, a saliva sample, and palm and thumb print impressions pursuant to Penal Code, Part 1, Title 9, Chapter 6, Articles 1 through 7 (sections 295 et seq.), after receiving written notification that such specimens and samples must be provided.

(T) Participation in gambling.

(U) Late return or failure to return from a temporary community release or leave.

(V) Unauthorized possession of materials or substances which have been modified or altered from their original manufactured state or purpose with their potential to be made, or in the process of being made, into a weapon; explosive or explosive-making materials; poison, caustic substance; or any destructive device.

(W) Self mutilation or attempted suicide for the purpose of manipulation.

(X) Involvement in a conspiracy or attempt to do any of the above.

(b) In addition to the disciplinary hearing, the inmate may be subject to segregation from the general population pursuant to sections 3312 and 3335 through 3345; and referral for prosecution when the misconduct is a criminal offense.

(c) Hearing. Serious rule violations shall be heard at the Senior Hearing Officer (SHO) or higher level. A SHO shall not be below the level of a facility captain, correctional captain, correctional counselor III, parole agent III, or an experienced correctional lieutenant, correctional counselor II, or parole agent II.

(d) An inmate shall be assigned an employee to assist in the investigation of matters pertaining to a disciplinary action when the chief disciplinary officer or designee determines the necessity based on the following criteria.

(1) Investigative Employee.

(A) An investigative employee, as described in section 3318(a), shall be assigned when the staff designated to classify the serious rule violation determines that:

1. The complexity of the issues require further investigation.

2. The housing status makes it unlikely the charged inmate can collect and present the evidence necessary for an adequate presentation of a defense.

3. A determination has been made that additional information is necessary for a fair hearing.

(B) The inmate may choose to waive the assignment of an investigative employee as required by subsection (2) above. The inmate's request to waive assistance of an investigative employee under this subsection will be indicated in the ''waived by inmate'' checkbox on the CDC Form 115-A and signed and dated by the inmate. The classifying official may choose to un-assign the investigative employee based on the inmate's signed waiver on the CDC Form 115-A.

(C) Staff who witnessed or who will serve as a hearing official for a rule violation shall not serve as the investigative employee for that violation.

(D) The inmate may not select the investigative employee, but may object to the one assigned and provide, in writing to the classifying official, the reasons for the objection. The classifying official shall evaluate the inmate's objection(s) and, if determined to be reasonable, assign an alternate investigative employee to complete the investigation. If the classifying official determines that the inmate's objections are not reasonable, the original investigative employee shall complete the investigation. The inmate's objection must be expressed prior to the beginning of the investigation. The classifying official shall note on the CDC Form 115-A his/her decision to deny or approve a request for an alternate investigative employee, and if denied, explain the reason(s) for denial.

(E) Assignment of an investigative employee shall not preclude the assignment of a staff assistant.

(2) Staff Assistant.

(A) The inmate shall be assigned a staff assistant, as described in section 3318(b), to assist in the preparation, and presentation of a defense at the disciplinary hearing if the classifying official determines:

1. The inmate is illiterate or non-English speaking.

2. The complexity of the issues are such that assistance is necessary so the inmate comprehends the nature of the charges or the disciplinary process.

3. The inmate's disability is such that staff assistance would be necessary for the inmate to participate in the disciplinary process.

(B) At any point prior to the disciplinary hearing, if it is discovered that the inmate may need a staff assistant, the classifying official or staff at an equal or higher rank, shall be advised in writing of the need, and if appropriate per section 3315(d)(2)(A), order the assignment of the staff assistant. If the need for staff assistance is discovered by the hearing official at the time of the disciplinary hearing, the hearing official shall postpone the hearing and order the assignment of the staff assistant. In either instance, the inmate shall be provided at least a 24 hour time period to allow for preparation with the assigned staff assistant prior to participating in the disciplinary hearing.

(C) An inmate may refuse to accept the first staff assistant at the time of assignment or at any time during the disciplinary process.

(D) If the inmate refuses the staff assistant at the time of initial assignment, a second staff assistant shall be assigned.

(E) If the inmate refuses to accept the second staff assistant or withdraws acceptance of an assigned staff assistant, the assignment of another staff assistant shall not be required unless the chief disciplinary officer or designee determines that a fair hearing cannot be held without staff assistance.

(1) Inmate participants in the Mental Health Services Delivery System at the level of Enhanced Outpatient Program, Mental Health Crisis Bed, Department of Mental Health, or Developmentally Disabled Program participants at the level of DD1-DD3 are ineligible to waive or refuse the assignment of a staff assistant. The staff assistant shall perform his/her required duties to the extent possible despite a waiver or refusal by the ineligible inmate to cooperate.

(F) Assignment of a staff assistant shall not preclude assignment of an investigative employee.

(1) When an inmate has been assigned a staff assistant and an investigative employee, the staff assistant must be present during any questioning by the investigative employee.

(e) Witnesses. An inmate may request that friendly and adverse witnesses attend the hearing.

(1) Requested witnesses shall be called unless the official conducting the hearing denies the request for one of the following reasons:

(A) The appearance would endanger the witness.

(B) The official determines that the witness has no relevant or additional information.

(C) The witness is unavailable.

(2) If an inmate's request for a witness is denied, the reasons shall be documented on the CDC Form 115.

(3) Whether or not the inmate requests a witness, witnesses may be called if the official conducting the hearing determines the witnesses may have information necessary to the finding of fact.

(4) The reporting employee shall attend the disciplinary hearing or be available for questioning via speakerphone if requested by the inmate.

(5) Under the direction of the official conducting the disciplinary hearing, the inmate has the right to ask questions of all witnesses called. The SHO will screen all questions to ensure they are relevant to the violation charged.

(6) Nothing in this section shall preclude making a witness available by speaker phone for a disciplinary hearing.

(f) Disposition. Upon completion of the fact-finding portion of the disciplinary hearing, the inmate may be found:

(1) Not guilty and the charges dismissed.

(2) Guilty of an administrative rather than a serious rule violation. In such case, the CDC Form 115 shall be reduced to an administrative level offense and the inmate may be assessed only a disposition authorized in section 3314.

(3) Guilty as charged or guilty of an included serious rule violation and assessed a credit forfeiture pursuant to section 3323.

(4) If the violation included an act related to the use, possession, or distribution of controlled substances, controlled medication, drugs or drug paraphernalia; or if the inmate refused to submit to a test for controlled substances or drugs, the disposition shall include an order for the inmate to submit to mandatory random drug testing for one year from the date of the order.

(A) For the first offense, the inmate must provide a minimum of one random drug test per month for one year.

(B) For the second offense, the inmate must provide a minimum of two random drug tests per month for one year.

(C) For the third and all subsequent offenses, the inmate must provide a minimum of four random drug tests per month for one year.

(D) The inmate shall be informed that refusal to submit to a random test or any positive test result during the mandatory random drug testing period shall result in the issuance of a CDC Form 115 and a new mandatory drug testing order.

(5) The disposition may or when mandated shall include assessment of one or more of the following:

(A) Any combination of penalties authorized for administrative rule violations in section 3314(e).

(B) Suspension of privileges specified by the hearing official for no more than a 90-day period starting the date the rule violation report was adjudicated. The suspension of privileges for violations of subsections 3016(a), 3016(c), and 3290(d) shall be assessed as follows:

1. Thirty days for the first offense.

2. Sixty days for the second offense.

3. Ninety days for the third offense.

(C) Placement into privilege group B or C for no more than a 90-day period starting from the date the rule violation report was adjudicated.

(D) Disciplinary detention or confinement to quarters as provided in sections 3330 and 3333 for not more than a ten-day period. If facility security will not be jeopardized, the inmate shall be released to attend work and program assignments.

1. Second offense violations of subsections 3016(a), 3016(c), and 3290(d) shall result in confinement to quarters for five days.

2. Third and all subsequent offense violations of subsections 3016(a), 3016(c), and 3290(d) shall result in confinement to quarters for 10 days.

(E) Referral to a classification committee for consideration of placement in Work Group C.

(F) Suspension of all or part of dispositions other than credit forfeitures, ordered random drug testing and classification committee referrals, for up to six months based on the inmate's compliance with the conditions specified for suspension.

(G) Imposition of all or part of an existing suspended disposition when the current rule violation is a violation of conditions specified in a suspended disposition. Imposition of a suspended disposition shall not include confinement to quarters or disciplinary detention for a period exceeding ten days except as provided in section 3322.

(H) For a violation of subsection 3016(c), there shall be a loss of visits for one year to be followed by non-contact visits for two years.

(I) Loss of visits to be followed by non-contact visits for violations of subsection 3016(a) (with the exception of alcohol violations), or 3290(d) shall be as follows:

1. Loss of visits for 90 days, to be followed by non-contact visits for 90 days for the first offense.

2. Loss of visits for 90 days, to be followed by non-contact visits for 180 days for the second offense.

3. Loss of visits for 180 days, to be followed by non-contact visits for 180 days for the third offense.

(J) Violation of subsections 3016(a), 3016(c), and 3290(d) shall result in:

1. For the first offense, the inmate shall be required to attend Alcoholic Anonymous or Narcotic Anonymous meetings or assigned to a substance abuse education program to the extent such programs are available in the institution/facility.

2. For the second offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met.

3. For the third offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met, and mandatory treatment shall be a condition of parole.

(K) Violation of Indecent Exposure or Sexual Disorderly Conduct of sections 3007, 3323(d)(7), 3323(f)(5), and 3323(g)(8) shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

(L) Inmates placed in ASU, SHU, PSU, Privilege Group D, who are found guilty of any RVR deemed serious per this section are subject to temporary loss of entertainment appliances as follows:

1. Thirty days for the first offense

2. Sixty days for the second offense.

3. Ninety days for the third offense.

(M) Violation of Refusing to Accept Assigned Housing of sections 3005(c) and 3269.1 shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

(N) Violation of Refusing to Accept an Inmate Housing Assignment of subsection 3005(c) shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, vendor packages, telephone privileges, and personal property, and referral to a classification committee for

review and determination for program failure. An inmate who is deemed a program failure by a classification committee is subject to having his/her personal property/appliances disposed of in accordance with Departmental procedure.

(g) Classification Committee Review. Any serious disciplinary action requiring reconsideration of an inmate's program, work group, or housing assignment, shall be referred to the next reasonably scheduled classification committee for review. This review shall not occur until the chief disciplinary officer's audit of the CDC Form 115 has been concluded. The classification committee shall affirm or modify the inmate's program, work group, or housing assignment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295–300.3, 314, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4573.6, 5054, 5068 and 12020, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. New subsection (g) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
4. Amendment of subsection (a)(3), renumbering of subsections (a)(16)–(a)(19) to (a)(18)–(a)(21) and new subsections (a)(16)–(a)(17) filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
5. Amendment of subsections (a)(3), (b)(4) and (b)(5) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
6. Amendment of subsection (d) filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).
7. Amendment of subsection (b)(1) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
8. Amendment of subsection (a)(19) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
9. Amendment of subsections (a), (b)(4), (f)(4) and repealer and new subsection (d) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
10. Editorial correction of subsections (b) and (c) filed 2-19-85 (Register 85, No. 8).
11. Amendment of subsections (b), (c), (e) and (g) filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
12. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
13. Amendment of subsections (b), (c), (e) and (g) filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
14. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-30-88; disapproved by OAL (Register 88, No. 24).
15. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
16. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
17. New subsection (a)(14), subsection renumbering, and amendment of Note filed 7-29-93 as an emergency; operative 7-29-93 (Register 93, No. 31). A Certificate of Compliance must be transmitted to OAL 11-26-93, or emergency language will be repealed by operation of law on the following day.
18. Certificate of Compliance as to 7-29-93 order transmitted to OAL 11-18-93 and filed 12-31-93 (Register 94, No. 1).
19. Amendment of section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
20. Amendment of subsection (f)(4) filed 7-1-96 as an emergency; operative 7-1-96 (Register 96, No. 27). A Certificate of Compliance must be transmitted to OAL by 12-8-96 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 7-1-96 order transmitted to OAL 9-23-96 and filed 11-4-96 (Register 96, No. 45).
22. Change without regulatory effect amending subsection (f)(5)(A) filed 12-2-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).
23. Amendment of subsections (c), (f)(5)(D) and (g) filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
24. Certificate of Compliance as to 10-16-97 order transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
25. Amendment filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day.
26. Amendment of subsection (a)(3)(M) filed 12-1-98 as an emergency; operative 12-1-98 (Register 98, No. 49). Pursuant to Penal Code 5058(e), a Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
27. Amendment refiled 2-3-99 as an emergency, including further amendment redesignating former subsections (f)(5)(I)(1)–(3) as subsections (f)(5)(I)1.–3.; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
28. Certificate of Compliance as to 12-1-98 order transmitted to OAL 5-7-99 and filed 6-4-99 (Register 99, No. 23).
29. Certificate of Compliance as to 2-3-99 order, including new subsection (f)(5)(H), subsection relettering and amendment of newly designated subsection (f)(5)(I), transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).
30. New subsection (a)(3)(S), subsection relettering and amendment of Note filed 9-20-99 as an emergency; operative 9-20-99 (Register 99, No. 39). Pursuant to Penal Code section 5058(e) a Certificate of Compliance must be transmitted to OAL by 2-28-2000 or emergency language will be repealed by operation of law on the following day.
31. Certificate of Compliance as to 9-20-99 order transmitted to OAL 1-14-2000 and filed 2-22-2000 (Register 2000, No. 8).
32. Amendment of subsection (a)(3)(S) filed 10-4-2002 as an emergency pursuant to a certificate of operational necessity under Penal Code section 5058.3; operative 10-4-2002 (Register 2002, No. 40). Pursuant to Penal Code section 5058.3, this filing is deemed an emergency and a Certificate of Compliance must be transmitted to OAL by 3-13-2003 or emergency language will be repealed by operation of law on the following day.
33. Certificate of Compliance as to 10-4-2002 order, including further amendment of subsection (a)(3)(S), transmitted to OAL 3-12-2003 and filed 4-8-2003 (Register 2003, No. 15).
34. Amendment of subsection (f)(5)(B), new subsection (f)(5)(C) and subsection relettering filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
35. Amendment of subsection (f)(5)(B), new subsection (f)(5)(C) and subsection relettering refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
36. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).

37. New subsections (f)(5)(L)–(f)(5)(L)2. and amendment of Note filed 2-23-2007 as an emergency; operative 2-23-2007 (Register 2007, No. 8). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-2-2007 or emergency language will be repealed by operation of law on the following day.
38. Certificate of Compliance as to 2-23-2007 order transmitted to OAL 7-27-2007 and filed 9-5-2007 (Register 2007, No. 36).
39. New subsections (f)(5)(M)–(f)(5)(M)2. filed 12-28-2007; operative 12-28-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 52).
40. New subsections (f)(5)(N)–(f)(5)(N)2. filed 3-18-2008 as an emergency; operative 3-18-2008 (Register 2008, No. 12). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-25-2008 or emergency language will be repealed by operation of law on the following day.
41. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).
42. Certificate of Compliance as to 3-18-2008 order transmitted to OAL 8-18-2008 and filed 9-15-2008 (Register 2008, No. 38).

3316. Referral for Criminal Prosecution.

(a) Except as provided in subsection (b), all criminal misconduct by persons under the jurisdiction of the department or occurring on facility property shall be referred by the institution head or designee to appropriate authorities for possible investigation and prosecution when there is evidence substantiating each of the elements of the crime to be charged.

(1) Referrals for investigation of inmate criminal misconduct shall be accompanied by a JUS Form 8715 (Rev. 6/88) Department of Justice, Disposition of Arrest and Court Action.

(2) The authority to whom a case is referred shall be asked to provide the institution head or designee with written notification within ten working days advising if prosecution shall be initiated.

(3) Inmates shall be notified in writing when misconduct is referred for possible prosecution.

(b) Notwithstanding evidence substantiating each of the elements of the crime to be charged, criminal misconduct shall not be referred to the local district attorney if the local district attorney has submitted written notification to the institution head including criteria determining that specified crimes shall not be prosecuted if the crime involved meets such criteria.

(c) Referral of an inmate's misconduct for prosecution shall not stay the time limits for a disciplinary hearing unless the inmate submits a written request to the chief disciplinary officer or signs and dates the CDC Form 115-A (Rev. 7/88), Serious Rules Violation Report, requesting postponement of the hearing pending the outcome of the referral.

(1) A postponed disciplinary hearing shall be held within 30 days after any one of the following events;

(A) The inmate has revoked a postponement request; an inmate may revoke a postponement request any time until the prosecuting criminal authority has filed an accusatory pleading against the inmate. The request shall be submitted in writing to the chief disciplinary officer or designee who shall complete the CDC Form 115-A revoking the postponement request.

(B) Written notice is received from the institution head or designee that the inmate's misconduct will not be referred for prosecution pursuant to subsection (b).

(C) Written notice is received that the prosecuting authority does not intend to prosecute.

(D) Written notice is received that the criminal proceedings are terminated without an acquittal.

(2) A decision to not prosecute or a court's dismissal of criminal charges without acquittal shall not prohibit or alter a departmental disciplinary hearing on the rule violation charges.

(3) A court verdict of guilty or not guilty, resulting from a trial, shall be accepted as the finding of fact on the same charges in a disciplinary hearing. Should the court accept a plea agreement or negotiated settlement resulting in a conviction for a lesser offense than was originally charged, or if a court dismisses a charge prior to trial, the Department shall not be precluded from taking appropriate administrative action based on the facts contained in the original charge. If a court finds the inmate not guilty after a finding of guilty in a disciplinary hearing, the rule violation charges shall be dismissed.

(4) Any verdict of the court shall not prohibit or reverse the actions of a disciplinary hearing on any lesser offenses included in the criminal charge.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

HISTORY:

1. Amendment filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment filed 6-30-77 as an emergency; effective upon filing (Register 77, No. 27).
3. Amendment of subsection (d) filed 9-29-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 40).
4. Amendment of subsection (b) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
5. Amendment filed 11-1-79 as an emergency; effective upon filing (Register 79, No. 44). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 3-1-80.
6. Certificate of Compliance including amendment of subsection (c) filed 2-15-80 (Register 80, No. 7).
7. Amendment filed 12-1-80 as an emergency; designated effective 1-1-81 (Register 80, No. 49).
8. Order of Repeal of 12-1-80 order filed 12-5-80 by OAL pursuant to Government Code section 11349.6 (Register 80, No. 49).
9. Amendment filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
10. Amendment of subsection (e)(2) and (e)(3) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code section 11346.2(d) (Register 83, No. 19).
11. Amendment filed 10-24-88; operative 11-23-88 (Register 88, No. 45).
12. Amendment filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
13. Amendment of subsection (c)(3) filed 11-3-97 as an operational emergency pursuant to Penal Code section 5058(e); operative 11-3-97 (Register 97, No. 45). A Certificate of Compliance must be transmitted to OAL by 4-13-98 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 11-3-97 order transmitted to OAL 2-3-98 and filed 3-12-98 (Register 98, No. 11).

3317. Mental Health Evaluations for Disciplinary Hearings.

An inmate shall be referred for a mental health evaluation prior to documenting misbehavior on a CDC Form 115, Rules Violation Report, in any case where the inmate is suspected of self mutilation or attempted suicide. If the mental health evaluation determines that it was an actual suicide attempt, a CDC Form 115 shall not be written and the behavior shall be documented on a CDC Form 128B (Rev. 4/74), General Chrono, for inclusion in the inmate's central file.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Repealer and new section filed 3-24-78 as an emergency; effective upon filing (Register 78, No. 12).
3. Certificate of Compliance filed 6-15-78 (Register 78, No. 24).
4. Repealer and new section filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
5. Relocation and amendment of former subsections 3317(a)–(b)(2) to subsections 3312(a)(3)(A)–(B) and new section filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

6. Editorial correction deleting formerly relocated text (Register 95, No. 34).
7. Amendment of section heading and subsection (a), and repealer of subsections (b)–(b)(2) filed 8-23-95 as an emergency; operative 8-23-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-30-96 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-23-95 order transmitted to OAL 1-8-96 and filed 2-16-96 (Register 96, No. 7).

3318. Assistance to Inmates for Serious Rule Violations.

(a) Investigative employee. The investigative employee is designated to gather information for the senior hearing officer or disciplinary hearing committee as described in section 3315(d)(1)(A).

(1) The investigative employee shall:

(A) Interview the charged inmate.

(B) Gather information.

(C) Question all staff and inmates who may have relevant information.

(D) Screen prospective witnesses.

(E) Submit a written report to the senior hearing officer or disciplinary committee chairperson to include witness statements and a summary of the information collected specific to the violation charged.

(2) A copy of the investigative employee's report shall be provided to the inmate no less than 24 hours before a disciplinary hearing is held.

(3) When an investigative employee provides assistance to an inmate, in lieu of or in addition to that provided by a staff assistant, the investigative employee shall do so as a representative of the official who will conduct the disciplinary hearing rather than as a representative of the inmate.

(4) An investigative employee is not subject to the confidentiality provisions of subsection (b)(2)(A) and shall not withhold any information received from the inmate.

(b) Staff Assistant.

(1) The assigned staff assistant shall:

(A) Inform inmates of their rights and of the disciplinary hearing procedures.

(B) Advise and assist in the inmate's preparation for a disciplinary hearing, represent the inmate's position at the hearing, ensure that the inmate's position is understood, and that the inmate understands the decisions reached.

(C) Refrain from giving legal counsel or specifying the position the inmate should take in any disciplinary, classification or criminal proceeding.

(2) The inmate shall be informed that:

(A) The staff assistant shall keep confidential any information the inmate may disclose concerning the charges for which the staff assistant was assigned.

(B) All evidence and information obtained and considered or developed in the disciplinary process may be used in court if the violation has been or is to be referred for criminal prosecution.

(3) If the staff assistant becomes aware that the inmate is contemplating future criminal conduct, the staff assistant shall disclose this information if necessary to protect potential victims and prevent the contemplated crime.

(4) The staff assistant shall inform the inmate that all evidence and information obtained and considered or developed in the disciplinary process may be used in court if the same charges have been or are to be referred to the district attorney for possible criminal prosecution.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Amendment filed 8-17-79 as an emergency; effective upon filing (Register 79, No. 33). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 12-15-79.
3. New subsection (e) filed 11-1-79 as an emergency; effective upon filing (Register 79, No. 44). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 3-1-80.
4. Certificate of Compliance as to 8-17-79 order filed 12-14-79 (Register 79, No. 50).
5. Certificate of Compliance as to 11-1-79 order filed 2-15-80 (Register 80, No. 7).
6. Amendment filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).
7. Amendment filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
8. Amendment of section heading and section filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
9. Amendment of subsections (a), (a)(1)(E) and (b)(2)(A)–(B) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3319. Investigative Employees.

HISTORY:

1. Amendment of subsection (a) filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment filed 8-18-78; effective thirtieth day thereafter (Register 78, No. 33).
3. Repealer filed 5-4-83; designated effective 6-1-83 pursuant to Government Code section 11346.2(d) (Register 83, No. 19).

3320. Hearing Procedures and Time Limitations.

(a) A classified copy of the CDC Form 115 per section 3313(a), CDC Form 115-A (Rev. 07/88), and any additional/supplemental information documented via the CDC Form 115-C (Rev. 5/95) containing any elements of the violation charged shall normally be provided to the inmate within 15 days from the date the information leading to the charges is discovered by staff or, in the case of an escapee, within 15 days after the escapee's return to the department's custody.

(1) Providing the inmate with a copy of the classified CDC Form 115, CDC Form 115-A, and CDC Form 115-C (if applicable) may be delayed beyond 15 days, but no more than an additional 30 days for a total of 45 days, and shall not prohibit forfeiture of credits as a penalty for the misconduct when all of the following criteria are met:

(A) The misconduct could be prosecuted as murder, attempted murder, or battery on staff.

(B) An investigation is continuing to identify others involved in the misconduct.

(C) Within 15 days of discovering the misconduct, a written request to delay the inmate's notification, including the reasons for the delay, is approved by the chief disciplinary officer.

(2) Time limitations for a re-issued CDC Form 115 shall commence on the date the chief disciplinary officer orders the re-hearing pursuant to Subsection 3320(a)(1) above.

(b) The charges shall be heard within 30 days from the date the inmate is provided a classified copy of the CDC Form 115 unless the charges were referred for possible prosecution and the inmate has been granted a request for postponement of the disciplinary proceedings pending the outcome of the referral, if exceptional circumstances exist pursuant to section 3000, or the inmate is transferred out of the custody of the department.

(1) The Hearing for a CDC Form 115 ordered re-issued/re-heard shall be conducted pursuant to Subsection 3320(b) above relative to the re-issued copy.

(c) A disciplinary hearing shall not be held until the inmate has been provided:

(1) A classified copy of the CDC Form 115 and all non-confidential reports containing information relative to the charge, including the investigative employee's report.

(2) At least 24 hours to review the material and prepare for the hearing. The hearing may be held earlier if the inmate waives the 24-hour period.

(d) A hearing may be postponed up to 30 days upon receipt of the inmate's written request to the CDO showing a reasonable need for postponement. The CDO will evaluate the request and approve or deny it based on its credibility. Postponement shall not bar any credit forfeiture.

(e) If a hearing is postponed for any reason, such reason shall be documented in the findings section of the CDC Form 115.

(f) The following events shall preclude denial or forfeiture of credits:

(1) The inmate was not provided a copy of the CDC Form 115 within 15 days after the discovery of information leading to the charges except as other provided in (a).

(2) The official conducting the hearing did not establish that the information or evidence was not reasonably discoverable within 30 days or sooner or when the inmate is not provided a copy of the CDC Form 115 within 15 days of the misconduct, unless (a) is applicable.

(3) The disciplinary hearing was not held within 30 days of the date the inmate was provided a classified copy of the CDC Form 115, unless the inmate requested and was granted a postponement of the hearing pending outcome of the referral pursuant to section 3316, exceptional circumstances as defined in Section 3000 exist, or if the inmate is transferred out of the custody of the department.

(4) A disciplinary hearing was not held within 30 days after the chief disciplinary officer was notified of the outcome of a prosecution referral or within 30 days of the inmate's revoked request for postponement of the hearing, if an accusatory pleading was not filed against the inmate.

(5) The inmate was not provided a written explanation of the exceptional circumstances preventing a hearing within 30 days after the inmate was provided a copy of the CDC Form 115 and the official conducting the hearing did not establish in the findings of the hearing that the delay did not prejudice the inmate.

(g) The inmate shall normally be present at a disciplinary hearing. When a disciplinary hearing is held without the inmate present, the reason for the absence shall be documented during the hearing on the CDC Form 115. The inmate shall be present at a disciplinary hearing unless:

(1) A psychiatrist has determined that the inmate suffers from a serious mental disorder preventing the inmate's understanding of or participation in the hearing, and there is a compelling reason or need to proceed with the hearing.

(2) The inmate was convicted of escape in court and has not been returned to the facility or jurisdiction from which the escape occurred.

(3) The inmate has waived the right to be present in writing, or in the case of a refusal to sign a waiver, the refusal was witnessed by a custody officer, documented on a CDC Form 128-B (Rev. 4/74), and attached to the CDC Form 115 for review by the Senior Hearing Officer at the disciplinary hearing and by the Chief Disciplinary Officer following adjudication of the rules violation report.

(h) Staff who observed, reported, classified, supplied supplemental reports to, or investigated the alleged rule violation; who assisted the inmate in preparing for the hearing; or for any other reason have a predetermined belief of the inmate's guilt or innocence shall not hear the charges or be present during deliberations to determine guilt or innocence and disposition of the charges.

(i) An inmate witness shall not be transferred between facilities to testify at a hearing unless the chief disciplinary officer of the facility hearing the charges determines a fair and impartial hearing cannot be conducted unless the witness is present. When a witness is not available, the chief disciplinary officer of the facility where the witness is located shall be notified of the need to appoint an investigative employee to discuss the case with the investigative employee of the facility conducting the disciplinary hearing; to interview the witness, prepare a written investigative report, and forward the report to the facility where the hearing will be conducted.

(j) When an inmate whose rule violation charges are being adjudicated is ordered to leave the hearing room, all witnesses, including staff witnesses, shall also leave the room. The inmate has a right to be present when any witness is present at the hearing.

(k) When a serious rule violation occurs during transportation of an inmate, transporting staff witnesses shall be present at the hearing if requested, or shall be available for questioning by telephone during the disciplinary hearing.

(l) The inmate may present documentary evidence in defense or mitigation of the charges. Any finding of guilt shall be based upon determination by the official(s) conducting the disciplinary hearing that a preponderance of evidence submitted at the hearing substantiates the charge. At the conclusion of the disciplinary hearing, the inmate shall be informed of the findings and disposition of the charge and of the right to and procedure for appeal of the action. Within five working days following review of the CDC Form 115 and CDC Form 115-A by the chief disciplinary officer, the inmate shall be provided a copy of the completed CDC Form 115 containing the findings, disposition, and evidence relied upon in reaching the conclusions.

(m) When an inmate is charged with possession of unauthorized or dangerous items or substances, or when unauthorized or dangerous items or substances are associated with commission of the charged rule violation, the hearing official shall record the disposition of the item or substance in the disposition section of the CDC Form 115.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

HISTORY:

1. Amendment of subsection (b) filed 12-1-80 as an emergency; designated effective 1-1-81 (Register 80, No. 49). For prior history, see Register 80, No. 16.
2. Order of Repeal of 12-1-80 order filed 12-5-80 by OAL pursuant to Government Code Section 11349.6 (Register 80, No. 49).
3. Amendment of subsection (c) filed 12-8-80; effective thirtieth day thereafter (Register 80, No. 50).
4. Amendment of subsection (b) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
5. Amendment of subsections (a)–(d) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
6. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
7. New subsection (l) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
8. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
9. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
10. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
11. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24) A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.

12. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
13. Amendment filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
14. Change without regulatory effect amending subsection (a)(1)(A) filed 5-7-96; operative 6-6-96 (Register 96, No. 19).
15. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3320.1. Hearings for Transferred Inmates.

(a) An inmate's pending disciplinary hearing shall be conducted before the inmate is transferred to another facility unless any one of the following circumstances apply:

(1) An emergency transfer to a higher security level is necessary based on charges of involvement in a major disturbance or serious incident.

(2) The inmate is charged with escape from a Level I or II facility and will not be returned to the facility from which the inmate escaped.

(3) The inmate requires emergency medical or psychiatric treatment.

(b) When an inmate is transferred before a disciplinary hearing or a rehearing is ordered on the rule violation charges after the inmate's transfer, one of the following methods shall be used to facilitate the disciplinary hearing process:

(1) The inmate may be returned to the facility where the violation occurred.

(2) The institution head at the facility where the violation occurred may request the hearing be conducted by staff where the inmate is currently housed or staff from the facility where the violation occurred may conduct the hearing at the facility where the inmate is housed.

(A) Facility staff where the rule violation occurred may appoint an investigative employee to conduct an investigation and prepare a report as outlined in section 3318.

(B) If a staff assistant is appointed, the staff assistant shall be present at the disciplinary hearing.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932, 5054 and 5068, Penal Code.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Amendment filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

3321. Confidential Material.

(a) The following types of information shall be classified as confidential:

(1) Information which, if known to the inmate, would endanger the safety of any person.

(2) Information which would jeopardize the security of the institution.

(3) Specific medical or psychological information which, if known to the inmate, would be medically or psychologically detrimental to the inmate.

(4) Information provided and classified confidential by another governmental agency.

(b) Uses of specific confidential material.

(1) No decision shall be based upon information from a confidential source, unless other documentation corroborates information from the source, or unless the circumstances surrounding the event and the documented reliability of the source satisfies the decision maker(s) that the information is true.

(2) Any document containing information from a confidential source shall include an evaluation of the source's reliability, a brief statement of the reason for the conclusion reached, and a statement of reason why the information or source is not disclosed.

(3) The documentation given to the inmate shall include:

(A) The fact that the information came from a confidential source.

(B) As much of the information as can be disclosed without identifying its source including an evaluation of the source's reliability; a brief statement of the reason for the conclusion reached; and, a statement of reason why the information or source is not disclosed.

(c) A confidential source's reliability may be established by one or more of the following criteria:

(1) The confidential source has previously provided information which proved to be true.

(2) Other confidential source have independently provided the same information.

(3) The information provided by the confidential source is self-incriminating.

(4) Part of the information provided is corroborated through investigation or by information provided by non-confidential sources.

(5) The confidential source is the victim.

(d) Filing confidential material.

(1) Only case information meeting the criteria for confidentiality shall be filed in the confidential section of an inmate's/parolee's central file.

(2) Proposed confidential documents shall be reviewed, signed, and dated by a staff person at the correctional counselor III, parole agent III, correctional captain, or higher staff level to indicate approval of the confidential designation and placement in the confidential section of the central file.

(3) Classification committee shall review the material filed in the confidential folder of each case considered. Any material not approved but designated confidential shall be removed from the folder and submitted to the designated staff person for review and determination.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1798.34, 1798.40, 1798.41 and 1798.42, Civil Code; Section 6255, Government Code; and Sections 2081.5, 2600, 2601, 2932, 5054 and 5068, Penal Code; and *Illinois* v. *Gates,* 462 U.S. 213 (1983).

HISTORY:

1. Repealer and new section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. Repealer and new section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. Repealer and new section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.

6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Amendment of subsection (c)(4) and Note filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).

3322. Length of Confinement.

(a) No inmate shall be kept in disciplinary detention or confined to quarters more than ten days. The chief disciplinary officer may shorten time spent in disciplinary detention or confined to quarters if the inmate appears ready to conform and the facility disciplinary process will benefit by such an action. When the disciplinary detention or confined to quarters disposition has expired and continued segregation is deemed necessary, the inmate shall be processed pursuant to section 3335.

(b) Time spent in segregation pending a disciplinary hearing shall normally be credited toward any disciplinary detention or confined to quarters sentence imposed. Reasons for not granting credit shall be explained in the disposition section of the CDC Form 115.

(c) No inmate shall be confined to quarters or otherwise deprived of exercise as a disciplinary disposition longer than ten days unless, in the opinion of the institution head, the inmate poses such an extreme management problem or threat to the safety of others that longer confinement is necessary. The director's written approval is required for such extended confinement.

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

HISTORY:

1. Amendment of section and new Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

3323. Disciplinary Credit Forfeiture Schedule.

(a) Upon a finding of guilt of a serious rule violation, a credit forfeiture against any determinate term of imprisonment or any minimum eligible parole date for an inmate sentenced to an indeterminate sentence, as defined is section 3000 Indeterminate Sentence Law (ISL), shall be assessed within the ranges specified in (b) through (h) below:

(b) Division ''A-1'' offenses; credit forfeiture of 181–360 days.

(1) Murder, attempted murder, and solicitation of murder. Solicitation of murder shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances.

(2) Manslaughter.

(3) Battery causing serious injury.

(4) Assault or battery with a deadly weapon or caustic substance.

(5) Rape, attempted rape, sodomy, attempted sodomy, oral copulation, and attempted oral copulation against the victim's will.

(6) Taking a hostage.

(7) Escape with force or violence.

(8) Possession, manufacture, or attempted manufacture of a deadly weapon or explosive device.

(9) Solicitation to commit an offense listed in subsections (b)(3), (b)(4) or (b)(5) above.

(c) Division ''A-2'' offenses; credit forfeiture of 151–180 days.

(1) Arson involving damage to a structure or causing serious bodily injury.

(2) Possession of flammable, explosive, or combustible material with intent to burn any structure or property.

(3) Destruction of state property valued in excess of $400 during a riot or disturbance.

(4) Any other felony involving violence or injury to a victim not specifically listed in this schedule.

(5) Attempted escape with force or violence.

(6) Introduction or distribution of any controlled substance, as defined in section 3000, in an institution/facility or contract health facility.

(7) Extortion by means of force or threat.

(8) Conspiracy to commit any Division ''A-1'' or ''A-2'' offense.

(9) Solicitation to commit an offense listed in subsections (c)(1), (c)(3), or (c)(8) above.

(d) Division ''B'' Offenses; credit forfeiture of 121–150 days.

(1) Battery on a peace officer not involving the use of a weapon.

(2) Assault on a peace officer by any means likely to cause great bodily injury.

(3) Battery on a non-prisoner.

(4) Threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staff's immediate family.

(5) Escape from any institution or community correctional facility other than a camp or community-access facility.

(6) Theft, embezzlement, destruction, or damage to another's personal property, state funds, or state property valued in excess of $400.

(7) Unauthorized possession of any controlled substance as defined in section 3000, including marijuana, in an institution/facility or contract health facility.

(A) Progressive disciplinary credit forfeiture for violations described in (7) above are as follows:

1. Credit forfeiture of 121–130 days for the first offense.
2. Credit forfeiture of 131–140 days for the second offense.
3. Credit forfeiture of 141–150 days for the third offense.

(8) Indecent Exposure with prior court conviction under PC 314 or PC 288.

(9) Any felony not involving violence or the use of a weapon not listed in this schedule.

(10) Conspiracy to commit any Division ''B'' offense.

(11) Solicitation to commit an offense as listed in subsections (d)(1) or (d)(2) above.

(e) Division ''C'' offenses; credit forfeiture of 91–120 days.

(1) Escape without force from a camp or community-access facility.

(2) Attempted escape without force from an institution or community correctional facility other than a camp or community-access facility.

(3) Furnishing equipment for or aiding and abetting an escape or escape attempt.

(4) Attempted extortion by means of threat.

(5) Bribery.

(6) Arson.

(7) Forgery, falsification, or alteration of any official record or document prepared or maintained by the department which could affect a term of imprisonment.

(8) Possession of any narcotic, drug, or controlled substance in a community-access facility.

(9) Unauthorized possession of drug paraphernalia as defined in Section 3000.

(10) The physical possession of alcohol in an institution/facility or contract health facility.

(11) Accessory to any felony offense.

(12) Conspiracy to commit any Division ''C'' offense.

(13) Solicitation to commit an offense listed in subsections (e)(5), (e)(6), or (e)(7) above.

(f) Division ''D'' offenses; credit forfeiture of 61–90 days.

(1) Use of a controlled substance (except marijuana or Barbiturates), as identified in H&SC 11007, based solely on a positive test result from an approved departmental testing method.

(2) Being under the influence of alcohol, any drug, controlled substance, or other intoxicant, as defined in section 3000 and unable to exercise care for personal safety or the safety of others.

(3) Participating in a riot, rout, or unlawful assembly.

(4) Inciting a riot.

(5) Indecent Exposure without a prior court conviction under PC 314 or PC 288.

(6) Willfully resisting, delaying, or obstructing any peace officer in the performance of duty.

(7) Late return from a temporary community leave.

(8) Assault or battery on a prisoner with no serious injury.

(9) Fighting.

(10) Assault of a peace officer by any means not likely to cause great bodily injury.

(11) Conspiracy to commit any Division ''D'' offense.

(12) Solicitation to possess, distribute or introduce an controlled substance into a institution or contract health facility.

(g) Division ''E'' offenses; credit forfeiture of 31–60 days.

(1) Theft, embezzlement, destruction, or damage to another's personal property, state funds or state property valued at less than $400.

(2) Possession of alcoholic beverages or intoxicating substances in a community-access facility under the jurisdiction of CDCR.

(3) Consensual participation in sodomy or oral copulation.

(4) Forgery or falsification or alteration of any government document or record not affecting an inmate's term of imprisonment.

(5) Gambling in an institution, community correctional facility, or camp other than a community-access facility.

(6) Refusal to provide blood specimens, a saliva sample, or palm and thumb print impressions pursuant to Penal Code sections 295 through 300.3, after receiving written notification in accordance with PC section 298.1 that they must be provided.

(7) Sexual Disorderly Conduct.

(8) Commission of any misdemeanor offense not listed in this schedule.

(9) Conspiracy to commit any Division ''E'' offense.

(10) Solicitation to commit an offense listed in subsections (g)(4) or (g)(7) above.

(h) Division ''F'' offenses; credit forfeiture of 0–30 days.

(1) Gambling in a community-access facility.

(2) Late return to a community-access facility.

(3) Use of marijuana, barbiturates or alcohol based solely on a positive test result from an approved departmental testing method.

(4) Misuse, alteration, unauthorized acquisition, or exchange of personal property, state funds, or state property.

(5) Refusing to provide a urine specimen for the purpose of testing for the presence of controlled substance(s) or alcohol.

(6) The fermentation or distillation of materials in a manner consistent with the production of alcohol.

(7) Possession of dangerous contraband as identified in section 3000.

(8) Unauthorized possession or distribution of medication (not identified as a controlled substance in section 3000).

(9) Work related offenses:

(A) Refusal to work or perform assigned duties;

(B) Continued failure to perform assigned work or participate in a work/training program.

(10) Any other serious rule violation meeting the criteria listed in section 3315, not a crime, and not identified as administrative in section 3314.

(i) Nothing in this section shall prevent the department from seeking criminal prosecution for any conduct constituting a violation of the law or from imposing one or more of the authorized punitive, preventative, or control measures described in these regulations, in addition to forfeiture of credits.

(j) Inmates shall be provided written notice of any credit forfeited by disciplinary action, of anticipated release date changes based on credit forfeiture set aside through the departmental appeal process, or a Board of Prison Terms review.

(k) If an inmate is held beyond an established parole date because of a disciplinary or prosecution action, the number of days the inmate is overdue when released shall be deducted from their parole period when one or more of the following apply:

(1) The inmate is found not guilty of the charges.

(2) No credit is forfeited as a result of the disciplinary hearing.

(3) An inmate appeal results in reduction of the credit forfeiture ordered in the disciplinary hearing.

(4) A Board of Prison Terms review results in restoration of all or part of the credit forfeiture ordered in the disciplinary hearing.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 148, 243, 295–300.3, 314, 647, 2932, 2933, 4573.6, 4600, 5054 and 12020, Penal Code.

HISTORY:

1. Amendment of subsection (a)(3) and new subsection (a)(3)(E) filed 12-1-78 as an emergency; designated effective 1-1-79. For prior history, see Register 77, No. 40.
2. Certificate of Compliance filed 2-22-79 (Register 79, No. 8).
3. Amendment of subsection (a) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
4. Amendment filed 11-20-79 as an emergency; designated effective 1-1-80 (Register 79, No. 47). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 3-20-80.
5. Certificate of Compliance filed 2-15-80 (Register 80, No. 7).
6. Amendment filed 5-4-83; designated effective 6-1-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 19).
7. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
8. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
9. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
10. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
11. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
12. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
13. Amendment of section heading, section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
14. New subsection (c)(7), subsection renumbering, amendment of subsection (d)(6), new subsections (d)(6)(A)–(d)(6)(A)3., repealer of subsection (d)(7), subsection renumbering, and amendment of subsections (e)(11) and (f)(1) filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day.
15. New subsection (c)(7), subsection renumbering, amendment of subsection (d)(6), new subsections (d)(6)(A)–(d)(6)(A)3., repealer of subsection (d)(7), subsection renumbering, and amendment of subsections (e)(11) and (f)(1) refiled 2-3-99 as an emergency; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 2-3-99 order transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).

17. New subsection (g)(6), subsection renumbering and amendment of Note filed 9-20-99 as an emergency; operative 9-20-99 (Register 99, No. 39). Pursuant to Penal Code section 5058(e) a Certificate of Compliance must be transmitted to OAL by 2-28-2000 or emergency language will be repealed by operation of law on the following day.
18. Certificate of Compliance as to 9-20-99 order transmitted to OAL 1-14-2000 and filed 2-22-2000 (Register 2000, No. 8).
19. New subsections (g)(7)–(g)(7)(C) and subsection renumbering filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
20. New subsections (g)(7)–(g)(7)(C) and subsection renumbering refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).
22. New subsections (d)(7) and (g)(8), subsection renumbering, amendment of subsection (f)(5), and amendment of Note filed 2-23-2007 as an emergency; operative 2-23-2007 (Register 2007, No. 8). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-2-2007 or emergency language will be repealed by operation of law on the following day.
23. Certificate of Compliance as to 2-23-2007 order transmitted to OAL 7-27-2007 and filed 9-5-2007 (Register 2007, No. 36).
24. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3324. Conduct Reportable to the Releasing Authority.

(a) Rules of the Board of Prison Terms and those of the Narcotic Addict Evaluation Authority require that specific acts of inmate conduct be reported to the appropriate releasing authority when the inmate has an established or anticipated release date on an indeterminate term or period of confinement. The applicable Board of Prison Terms and Narcotic Addict Evaluation Authority rules are set forth in Divisions 2 and 5 of Title 15, California Administrative Code, and are hereby incorporated by reference in the rules of the Director of Corrections.

(b) At the discretion of the appropriate releasing authority, a hearing for reconsideration of release may be held in conjunction with a disciplinary hearing for misconduct that is also reportable to the releasing authority.

(c) Releasing authority members and representatives may sit in the factfinding and disposition phase of a disciplinary hearing held in conjunction with a hearing by the releasing authority for release reconsideration. Releasing authority members and representatives will not act as factfinders or decision makers in the disposition of disciplinary charges against an inmate. However, the members and representatives of the releasing authority may participate in the factfinding phase of the disciplinary hearing as deemed necessary to bring out information which will aid in determining appropriate action relative to the inmate's scheduled or anticipated release.

(d) The scheduling of a combined departmental disciplinary hearing and a releasing authority hearing for reconsideration of an established or anticipated release date on an indeterminate term or period of confinement does not stay the time limits for a disciplinary hearing in which good time credit may be denied on a determinate term of imprisonment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2931, 3060 and 5054, Penal Code; Section 3051, Welfare and Institutions Code.

HISTORY:

1. Repealer and new section filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Repealer and new section filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
3. Amendment filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
4. Editorial correction of subsection (a) filed 2-19-85 (Register 85, No. 8).
5. Editorial correction of printing errors in subsection (c) (Register 92, No. 5).

3325. Appeal of Disciplinary Actions.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932, 5054 and 5077, Penal Code.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).
2. Repealer and new section filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
3. Amendment of subsection (c) filed 9-30-77; effective thirtieth day thereafter (Register 77, No. 40).
4. Amendment of subsection (b) filed 2-22-79; effective thirtieth day thereafter (Register 79, No. 8).
5. Amendment of subsections (a) and (c) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
6. Repealer of section 3325(a) and (b), and renumbering and amendment of former section 3325(c) to section 3084.7(c) filed 5-18-89 as an emergency; operative 5-18-89 (Register 89, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-15-89.
7. Certificate of Compliance as to 5-18-89 order transmitted to OAL 9-7-89 and filed 10-10-89 (Register 89, No. 41).

3326. Records of Disciplinary Matters.

(a) Upon conclusion of disciplinary proceedings, all documents relating to the disciplinary process, findings and disposition shall be disposed of in the following manner:

(1) When an inmate is held responsible for the act charged, copies of all documents prepared for and used in the disciplinary proceedings shall be placed in the inmate's central file. A copy of the completed CDC Form 115 shall be provided to the inmate. A copy of the completed CDC Form 115 shall be filed in the Register of Institution Violations.

(2) When the inmate is found not guilty of the act charged or when the charge is dismissed for any reason, the documents prepared for and used in the disciplinary process shall not be placed in any file pertaining to the inmate. However, two copies of any CDC Form 115 used in the disciplinary process shall be completed as to findings and disposition. One copy of the completed report shall be filed in the Register of Institution Violations. The other completed copy shall be provided to the inmate. All other copies of the CDC Form 115 and all supplemental reports shall be destroyed.

(3) Unless information developed through the disciplinary process, such as enemy information, needs to be considered in future classification committee determinations affecting an inmate found not guilty of a rule violation or whose charges were dismissed, no other recording or document relating to the rule violation charge or disciplinary proceedings shall be placed in files pertaining to the inmate.

(b) Information developed through the disciplinary process, classification committee determinations affecting the inmate, or events requiring explanation shall be recorded by the disciplinary hearing officer on a CDC Form 128-B, Informative Chrono, and referred to the classification committee. Such information shall include but not be limited to the following:

(1) The reason for an inmate's placement in restricted housing prior to adjudication of the charges if that information has not been previously considered in a classification committee hearing;

(2) Any reason for retaining the inmate in restricted housing after a finding of not guilty or dismissal of charges; or

(3) Any program assignment or placement change which needs to be considered in view of other inmate or employee animosity toward the individual.

(4) The CDC Form 128-B shall be placed in the inmate's central file and a copy shall be provided to the inmate.

(c) Provisions of this section shall also apply when a finding of guilt on disciplinary charges is reversed or dismissed on appeal, or when information reported on a CDC Form 128-A, Custodial Counseling Chrono, is found on appeal to be incorrect or inappropriate.

(d) A finding of not guilty, dismissal, or reversal of a previous finding of guilt shall require an audit and updating of any documentation in the inmate's file reflecting a prehearing assumption of guilt or the original finding of guilt. Such documentation shall not be removed from the inmate's file, but shall be annotated with a cross-reference to the CDC Form 128-B documenting the most recent findings and action on the charge.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 2081, Penal Code.

HISTORY:

1. New section filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Amendment of subsection (a) filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
3. Amendment of section and new Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).

Article 5.5. Restoration of Forfeited Worktime Credits

3327. Restoration of Forfeited Credits.

(a) Forfeited credits shall at no time be restored as specified below:

(1) No credit shall be restored for any serious disciplinary offense punishable by a credit loss of more than 90 days. These offenses include Divisions A-1, A-2, B and C.

(2) No credit shall be restored if the inmate is found guilty of any subsequent rule violation that occurred within the required disciplinary-free periods provided in Section 3328.

(3) No credit shall be restored if the worktime credit denial or loss was ordered by court judgment unless the court rescinds or overturns the order.

(4) No credit shall be restored for the following disciplinary offenses:

(A) The inmate was found guilty of use of a controlled substance, marijuana, or alcohol, based on a positive test result from a departmentally approved testing method;

(B) The inmate was ordered to submit to a drug test pursuant to section 3290(c) and refused the test;

(C) The inmate was found guilty of fermentation or distillation of materials in a manner consistent with the production of alcohol in a prison or community access facility;

(D) The inmate was found guilty of unauthorized possession of dangerous contraband as defined in section 3000.

(b) Upon completion of a disciplinary-free period for Division D, E, and F offenses as provided in section 3328, an eligible inmate may apply to their caseworker for credit restoration by submitting a CDC Form 958 (Rev. 8/87), Application for Inmate's Restoration of Credits. A restoration hearing shall be conducted within 30 days of the inmate's application. The inmate has a right to be present at the hearing and to a written decision of the committee.

(1) A classification action resulting in restoration of worktime credit shall be documented and forwarded to the facility's case records staff for recalculation of the inmate's release date.

(2) When an inmate does not meet the criteria for a credit restoration hearing, the caseworker shall note the reasons on the CDC Form 958 and return it to the inmate.

(c) Credit shall be restored at the consideration hearing unless it is determined that the inmate has, since the disciplinary infraction leading to the credit forfeiture, refused or failed to perform in a work, training, or educational assignment during the required disciplinary-free period, or under extraordinary circumstances, as described in section 3329.

(1) Credit shall not be restored in an amount rendering the inmate overdue for release.

(2) An inmate who is a violent offender as defined in Penal Code (PC) Section 667.5(c), or who is serving a term upon conviction of child abuse pursuant to PC Sections 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or who is an offender for whom such notification has been ordered by any court shall not be eligible for credit restoration which would result in a notification being provided to local law enforcement in less than 45 days prior to the inmate's scheduled release date.

(3) The inmate shall be informed at the hearing that case records staff shall determine the actual release date which shall include a minimum of ten working days for release processing. However, if the inmate is a violent offender as defined in PC Section 667.5(c) or is serving a term upon conviction of child abuse pursuant to PC Section 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been court ordered, the number of working days for release processing shall be sufficient to ensure that local law enforcement officials will be notified of the inmate's release in not less than the 45-day time frame required by law. A copy of the new legal status sheet reflecting the credit restoration shall be provided to the inmate.

(d) If less than 100 percent of restorable credits forfeited are restored by the classification committee, the inmate may make additional applications for restoration upon completion of additional disciplinary-free periods until all restorable credit is restored or the inmate is released from custody.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 2932, 2932.5, 2933, 3058.6, 3058.9 and 5054, Penal Code.

HISTORY:

1. New article 5.5 (sections 3327–3329) filed 5-4-83; designated effective 6-1-83 pursuant to Government Code section 1136.2(d) (Register 83, No. 19).
2. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
4. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
6. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
8. Amendment of subsections (b) and (c) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.

9. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).
10. Amendment of section heading, section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
11. Amendment of section pursuant to Penal Code section 5058(e) filed 3-20-96 as an emergency; operative 3-20-96 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-27-96 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 3-20-96 order transmitted to OAL 7-25-96 and filed 9-5-96 (Register 96, No. 36).
13. New subsection (a)(3) and amendment of Note filed 11-12-97 as an emergency; operative 11-12-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-13-98 or emergency language will be repealed by operation of law on the following day.
14. Editorial correction of History 13 (Register 98, No. 18).
15. New subsection (a)(3) and amendment of Note refiled 4-29-98 as an emergency; operative 4-29-98 (Register 98, No. 18). A Certificate of Compliance must be transmitted to OAL by 10-6-98 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 4-29-98 order transmitted to OAL 6-12-98 and filed 7-21-98 (Register 98, No. 30).
17. Amendment of subsection (a)(3) filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day,
18. Amendment of subsection (a)(3) refiled 2-3-99 as an emergency; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
19. Certificate of Compliance as to 2-3-99 order, including further amendment of subsection (a)(3) and new subsection (a)(4), transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).
20. Amendment of subsections (a)(2) and (c), new subsection (c)(2), subsection renumbering and amendment of newly designated subsection (c)(3) and Note filed 5-22-2006; operative 5-22-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).
21. Amendment of subsections (a)(2) and (a)(4) and new subsections (a)(4)(A)–(D) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3328. Disciplinary-Free Periods.

(a) A disciplinary-free period shall commence immediately following the date and time an inmate is identified (date of discovery of information leading to the charge) as committing a rules violation.

(b) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division ''D'' or ''E'' offense, not identified in section 3327, after remaining disciplinary free for 180 days.

(1) If less than 180 days remain before the inmate's established release date, a one-time application may be made within 90 days of the established release date when the inmate has remained disciplinary free for a minimum of 60 days.

(2) Violent offenders as defined in PC Section 667.5(c) and offenders serving a term upon conviction of child abuse pursuant to PC Sections 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been ordered by any court, shall be eligible for the one-time credit restoration application only if local law enforcement officials can be notified of the inmate's release in not less than the 45-day time frame required by law.

(c) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division ''F'' offense, not identified in section 3327, after remaining disciplinary free for 90 days.

(1) If less than 90 days remain before the inmate's established release date, a one-time application may be made within 60 days of the established release date when the inmate has remained disciplinary free for a minimum of 30 days.

(2) Violent offenders as defined in PC Section 667.5(c) and offenders serving a term upon conviction of child abuse pursuant to PC Sections 273a, 273ab, 273d, or any sex offense identified in statutes as being perpetrated against a minor victim, or for whom such notification has been ordered by any court, shall be eligible for the one-time credit restoration application only if local law enforcement officials can be notified of the inmate's release in not less than the 45-day time frame required by law.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5(c), 2932, 2933, 3058.6, 3058.9 and 5054, Penal Code.

HISTORY:

1. Amendment of section heading, section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
2. Repealer of subsections (b) and (c) and subsection relettering pursuant to Penal Code section 5058(e) filed 3-20-96 as an emergency; operative 3-20-96 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-27-96 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of second Exception (Register 96, No. 36).
4. Certificate of Compliance as to 3-20-96 order transmitted to OAL 7-25-96 and filed 9-5-96 (Register 96, No. 36).
5. Amendment filed 5-22-2006; operative 5-22-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).
6. Amendment of subsections (a), (b), (b)(1), (c) and (c)(1) filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

3329. Extraordinary Circumstances.

(a) Extraordinary circumstances are significant factors which aggravate the seriousness of a rule violation. A finding of factors in aggravation shall be cause to postpone restoration for one additional disciplinary-free period.

(b) Extraordinary circumstances include:

(1) The victim was particularly vulnerable.

(2) Multiple victims were involved.

(3) The inmate induced others to participate in the act or occupied a position of leadership or dominance over the other participants.

(4) The inmate threatened witnesses, prevented or dissuaded witnesses from testifying, induced others to perjure themselves or in any way interfered in the investigation or adjudication of the act.

(5) The inmate's misconduct included other acts which could have resulted in the forfeiture of additional credits.

(6) The plan, sophistication, or professionalism with which the act was carried out, or other facts indicating premeditation.

(7) The inmate involved nonprisoners in the act.

(8) The act involved a large quantity of contraband.

(9) The inmate took advantage of a position of trust or confidence.

(10) The inmate engaged in a pattern of violent conduct.

(11) The inmate's record documents numerous acts of and/or increasingly serious misconduct.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 4573.6, and 5054, Penal Code.

HISTORY:

1. New subsection (c)(13) filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).

3. Amendment of section and Note filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
4. Repealer of subsections (b)(1)–(2), (b)(10) and (b)(13), subsection renumbering, and amendment of newly designated subsection (b)(10) pursuant to Penal Code section 5058(e) filed 3-20-96 as an emergency; operative 3-20-96 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-27-96 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of subsection (b)(7) (Register 96, No. 36).
6. Certificate of Compliance as to 3-20-96 order transmitted to OAL 7-25-96 and filed 9-5-96 (Register 96, No. 36).
7. Repealer of subsection (b)(10) and subsection renumbering filed 8-27-98 as an emergency; operative 8-27-98 (Register 98, No. 35). A Certificate of Compliance must be transmitted to OAL by 2-3-99 or emergency language will be repealed by operation of law on the following day.
8. Repealer of subsection (b)(10) and subsection renumbering refiled 2-3-99 as an emergency; operative 2-3-99 (Register 99, No. 6). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 7-13-99 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 2-3-99 order transmitted to OAL 5-12-99 and filed 6-24-99 (Register 99, No. 26).

Article 6. Disciplinary Detention

3330. Disciplinary Detention.

(a) An inmate may not be assigned to disciplinary detention as defined in section 3000 except on the order of a disciplinary committee or senior disciplinary hearing officer.

(b) Disciplinary detention may be ordered in a housing unit or section of a housing unit specifically designed for that purpose or in any room or cell which provides the necessary security, control, and restriction of the inmate's actions. When disciplinary detention is ordered in a housing unit other than a designed disciplinary detention unit, the conditions of detention will be the same as prescribed for disciplinary detention units.

(c) Disciplinary detention may be ordered as a continuous period of confinement or as intermittent confinement on holidays, weekends or days off from assigned work and program activities. When ordered as intermittent confinement, confinement shall not exceed 10 days during a 35-day period. The chief disciplinary officer shall review the treatment of an inmate confined in disciplinary detention and consider a modification of sentence when evidence indicates the inmate is ready to conform to the rules.

(d) Time served in disciplinary detention will be computed on the basis of full days in detention. The day of placement and the day of release will not count as a day of time served. Intermittent detention may extend from the end of the workday before the first full day of detention to the beginning of the workday following the last full day of detention.

(e) Continuous disciplinary detention of an inmate shall not exceed 10 full days without approval of the director or deputy director, institutions.

(f) If an extension beyond 10 days is approved, the warden/superintendent shall note that fact in the disposition section of the rule violation report stating the reasons for the extension and the additional amount of time the inmate shall be confined, and shall sign and date the notation.

(g) A request for the director's approval to retain an inmate in disciplinary detention for longer than 30 days shall be accompanied by a current psychological evaluation of the inmate's mental health. Such evaluation shall include a personal interview with the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

HISTORY:

1. Repealer of Article 6 (sections 3330–3337) and new Article 6 (sections 3330–3333) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16). For prior history see Registers 77, No. 20, 78, No. 12, 78, Nos. 24 and 25, 79, Nos. 18 and 31.
2. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
3. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
4. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
5. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
6. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
7. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
8. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).
9. Editorial correction of printing error in History 1. (Register 92, No. 5).

3331. Conditions of Detention.

(a) Insofar as the safety and security of institution and for persons will permit, the physical facilities of designated disciplinary detention units will approximate those housing general population inmates.

(b) Quarters. Where adequate and secure facilities are available and the number of inmates assigned to designated disciplinary detention units permit, inmates so assigned will be housed in single occupancy quarters. When the use of multiple occupancy quarters is necessary, the number of inmates so assigned will not exceed the capacity of beds for which such quarters are equipped except as a temporary emergency measure. The office of the deputy director-institutions or the departmental duty officer will be notified when such an emergency exists for longer than 24 hours. Institution and department efforts will be coordinated as necessary to resolve the overcrowding situation as quickly as possible.

(c) Personal Items.

(1) Inmates will not be permitted to use or possess items of personally owned property, such as radios, television sets, tape players, musical instruments, and typewriters while undergoing disciplinary detention. Personal items necessary for health and hygiene may be used if such items are not available for issue by the institution.

(2) Inmates will not be permitted to purchase, use or possess edible or consumable canteen items while undergoing disciplinary detention.

(3) Inmates may be deprived of the use of personally owned clothing and footwear while undergoing disciplinary detention when adequate state clothing and footwear are issued. No inmate in disciplinary detention will be required to wear clothing that significantly differs from that worn by other inmates in the unit, except that temporary adjustments may be made for security reasons and for protection from self inflicted harm. No inmate will be clothed in any manner intended to degrade the inmate.

(d) Meals. Inmates in disciplinary detention shall be fed the same meal and ration as is provided for general population inmates. Meals served shall supply approximately 2500 calories per day.

(e) Mail. The sending and receiving of first class mail will not be restricted while an inmate is undergoing disciplinary detention.

Delivery or issue of packages, publications and newspapers will be withheld during disciplinary detention

(f) Visits. Inmates undergoing disciplinary detention retain the right to have personal visits. Privileges and amenities associated with visiting including physical contact with visitors may be suspended during the disciplinary detention period. When the number, length or frequency of visits are limited, the inmate will be permitted to choose who will visit from among persons approved to visit before the detention period began.

(g) Personal Cleanliness. Inmates undergoing disciplinary detention will be provided the means to keep themselves clean and well-groomed. Haircuts will be provided as needed. Showering and shaving will be permitted at least three times a week.

(h) Exercise. Inmates undergoing disciplinary detention will be permitted a minimum of one hour per day, five days per week, of exercise outside their cells unless security and safety considerations preclude such activity.

(i) Reading Material. State supplied reading material will be provided for inmates undergoing disciplinary detention. Such material may be assigned to disciplinary detention units from the inmate library and will represent a cross section of material available to the general population. At the discretion of the warden or superintendent, inmates enrolled in educational programs who have textbooks in their personal property may be permitted to study such material while undergoing disciplinary detention.

(j) Legal Material. Inmates undergoing disciplinary detention will not be limited in their access to the courts. Legal resources may be limited to pencil and paper, which will be provided upon request, for correspondence with an attorney or preparation of legal documents for the courts. Other legal material in an inmate's personal property may be issued to an inmate in disciplinary detention if litigation was in progress before detention commenced and legal due dates are imminent.

(k) Privileges. All privileges generally associated with the inmate's work/training incentive groups status will be suspended during a period of disciplinary detention. This includes but is not limited to: personal nonemergency telephone calls, handicraft activities, use of recreational equipment, and the viewing of television, and other privileges.

(*l*) Restrictions. A written report by the administrator or supervisor in charge of a disciplinary detention unit will be submitted to the chief disciplinary officer whenever an inmate undergoing disciplinary detention is deprived of any usually authorized item, activity or privilege. A special report to the chief disciplinary officer and to a classification committee will be made when an inmate's circumstances indicate a continuing need for separation from general population or from specific persons.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5030.1 and 5054, Penal Code.

HISTORY:

1. Amendment of subsection (k) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
2. Amendment of subsection (d) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
3. Amendment of subsection (c)(2) and amendment of Note filed 7-7-2005 as an emergency; operative 7-7-2005 (Register 2005, No. 27). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 12-14-2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-7-2005 order transmitted to OAL 12-13-2005 and filed 1-26-2005 (Register 2006, No. 4).

3332. Administration and Supervision of Detention Units.

(a) Plan of Operation. Each warden and superintendent will establish and maintain a plan of operations for the disciplinary detention of inmates, whether in a unit or section of a unit designated for this specific purpose or in conjunction with other special purpose housing of inmates. Such plans will conform to the provisions of this article and will be updated as necessary to reflect current procedures and practices. A copy of the plan will be submitted to the director for review and approval annually, as scheduled for required plans.

(b) Administration and Supervision. The administration of disciplinary detention units may be delegated to a staff member at not less than the level of correctional captain. The supervision of disciplinary detention units may be assigned to a staff member at not less than the level of correctional sergeant.

(c) Visitation. Inmates assigned to disciplinary detention units will be visited daily by the supervisor in charge of the unit and by an institution physician, registered nurse or a medical technical assistant. An inmate's request to be visited by other staff will be promptly referred to the staff member. A timely response should be given to such requests whenever reasonably possible.

(d) Supervisor's Responsibilities. The supervisor in charge of a disciplinary detention unit is responsible for the physical security of the unit, the control of contraband within the unit, and for safe, sanitary and decent working and living conditions within the unit. When any condition within the unit or the behavior, conduct or appearance of any inmate confined therein appears to warrant the attention of specific or specialized staff, the matter will be promptly brought to the attention of appropriate staff.

(e) Suicide Risks. Inmates undergoing disciplinary detention who are diagnosed by qualified medical staff as a suicide risk will be moved to a hospital setting, and medical staff will assume responsibility for such placement and for observation and supervision of the inmate. Such movement and supervision will be in cooperation and coordination with custody staff.

(f) Management Cases. An inmate who persists in unduly disruptive, destructive or dangerous behavior and who will not heed or respond to orders and warnings to desist from such activity, may be placed in a management cell on an order of the unit's administrator or, in his or her absence, an order of the watch commander. In addition to any necessary incident or disciplinary reports, the matter will be reported to the warden, superintendent, chief disciplinary officer or administrative officer of the day, one of whom will review management cell resident status daily. An inmate who requires management cell placement for longer than 24 hours will be considered for transfer to a psychiatric management unit or other housing appropriate to the inmate's disturbed state.

(g) Disciplinary Detention Records.

(1) A Disciplinary Detention Log, CDC Form 114, will be maintained in each designated disciplinary detention unit. Specific information required in this log will be kept current on a daily and shift or watch basis. A completed log book will be retained in the unit for as long as any inmate recorded on the last page of that log remains in the unit. Storage and purging of log books will be in accordance with department schedules. One disciplinary detention/segregation log may serve a disciplinary detention unit and other special purpose segregation units, which are combined and are administered and supervised by the same staff members.

(2) A separate record will be maintained on each inmate undergoing disciplinary detention. This record will be compiled on CDC Form 114-A, Detention/Segregation Record. In addition to the identifying information required on the form, all significant information relating to the inmate during the course of detention, from reception to release, will be entered on the form in chronological order.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 5054, Penal Code.

3333. Confinement to Quarters.

(a) Confinement to quarters may be ordered as a continuous period of confinement or as intermittent confinement on holidays, weekends or days off from assigned work and classified program

activities. When ordered as intermittent confinement, confinement may not exceed 10 ten days during a 35-day period.

(b) Confinement to quarters may extend from the first full day of confinement to the beginning of the day following the last full day of confinement. Such partial days will not reduce the total number of full days of ordered confinement.

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

HISTORY:

1. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 6).

Article 6.5. Behavior Management Unit

3334. Behavior Management Unit.

(a) An inmate may not be assigned to a Behavior Management Unit (BMU), as defined in section 3000, except on the order of a Classification Committee.

(b) Inmates may be referred to a Classification Committee for placement into the BMU for one or more of the following reasons:

(1) Program Failure. The inmate is deemed a Program failure as defined by section 3000.

(2) Security Housing Unit (SHU) Offense as defined in section 3341.5(c)(9).

(A) If an inmate has been found guilty of an offense for which a determinate term of confinement has been assessed, whether imposed or suspended, and whose in-custody behavior reflects a propensity towards disruptive behavior, the inmate may be referred to a classification committee for placement in the BMU.

(B) Inmates currently serving a determinate SHU term whose in-custody behavior reflects a propensity towards disruptive behavior, which otherwise would not be eligible for additional SHU term assessment, shall be considered by the Institutional Classification Committee (ICC) for placement in a BMU upon completion or suspension of the SHU term.

(C) Inmates that have reached the Minimum Eligible Release Date (MERD) and have demonstrated an unwillingness to program in the general population may be reviewed by the Classification Committee for BMU placement consideration.

(3) Gang Related Activity

(A) Any pattern, which consists of two or more documented behaviors which indicates an individual's participation in gang related activity may be grounds for placement in the BMU. Gang related activity is defined as behavior which indicates an inmate's participation in a gang, prison gang, street gang or disruptive group as defined in section 3000.

(c) Inmates who meet the criteria for placement in the BMU program per section 3334(b) shall be reviewed by a Classification Committee after initial placement in the BMU program as outlined in section 3334(c)(3) below. The Classification Committee shall review, determine and assess the appropriate step, and if applicable approve a step change as outlined in section 3334(e) for each BMU inmate as recommended by BMU staff not less than every 30 days.

(1) Initial placement into the BMU shall be for a minimum of 90 days beginning on the date of reception into the BMU.

(2) Subsequent BMU placements shall be for a minimum of 180 days beginning on the date of reception into the BMU. Inmates who require subsequent placement will be monitored by BMU staff to ensure program compliance. If an inmate refuses to participate as required, the Classification Committee will review for possible program rejection.

(3) The Classification Committee will complete an initial assessment and develop an Individualized Training Plan (ITP) within 14 days of placement into BMU. The ITP will be based on each inmate's reason(s) for placement as outlined in section 3334(b).

(4) Inmates shall be expected to meet the requirements established by the Classification Committee as outlined in the ITP.

(5) Inmates must remain disciplinary free and complete the ITP as directed by the Classification Committee before being released from the BMU. The ITP may include, but is not limited to, participation in departmentally approved cognitive behavior programs, and/or participation in self help groups.

(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 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.

(d) In each case of BMU placement, release from the BMU is based upon completion of the ITP established by the Classification Committee.

(1) The Classification Committee will determine if the inmate has successfully completed their ITP requirements or failed to meet their requirements. Inmates who have met their ITP requirements shall be eligible to advance to the next step of the BMU program. Inmates who have not met their ITP requirements shall be reviewed for appropriate step placement.

(e) BMU Step Process: Work Group/Privilege Group designations

(1) All inmates placed into the BMU will be designated a Work Group (WG), consistent with section 3044, and as determined by the Classification Committee effective the date of placement. Regardless of the WG, the designated Privilege Group (PG), consistent with section 3044, for Step 1 and Step 2 shall be C. The designated PG for Step 3 shall be B. All Work/Program assignments for BMU inmates shall be restricted to and located in the BMU.

(A) Step 1: Initial Placement—WG A1, A2, B or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 2.

(B) Step 2: WG A1, A2, B, or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 3.

(C) Step 3: WG A1, A2, B and PG B. If the inmate meets the goals of the ITP, he will advance to Step 4.

(D) Step 4: Upon completion of the ITP, inmates will be returned to traditional general population housing.

(f) Failure to progress in the stepped process shall be grounds for rejection from the BMU program and a review by the Classification Committee for placement on WG C PG C status. Inmates who have been rejected from the program shall not be placed in any other general population work or program assignment until they have successfully completed their ITP in the BMU. Inmates who have been rejected from the BMU program must submit a written request to their Correctional Counselor I for readmission to the program and shall be reviewed by the Classification Committee.

(g) Authorized BMU Property

(1) Inmates shall possess only the listed items of property while assigned to the BMU:

(A) Wedding band, plain metal only, one.

(B) Soft cover religious material, one.

(C) Soft cover dictionary, one.

(D) Prescription eyeglasses, clear lens only, one (as prescribed by a physician) pair.

(E) Athletic shoes, one pair.

(F) Shower shoes, one pair.

(G) Lined paper tablet, one.

(H) Embossed envelopes, fifteen.

(I) Legal material, as authorized per section 3161.

(J) Canteen items, not to exceed one month's draw of assigned privilege group.

(2) Inmates in the BMU shall possess property as authorized in section 3190(c).

(3) Inmates assigned to the BMU upon the initial placement will have their unauthorized property as outlined in 3334(g)(1) and 3334(g)(2) stored, provided:

(A) Initial BMU placement is for no more than 90 days.

(B) Inmate participates in the BMU program and progresses to the next step at each 30 day review as outlined in section 3334(e).

(C) Inmate does not receive any property related disciplinary violations while in the BMU program.

(4) Should the inmate fail to comply with these provisions above, all unauthorized property as outlined in 3334(g)(1) and 3334(g)(2) shall be disposed of as provided in section 3191(c).

(5) Inmates assigned to the BMU upon the second or subsequent placements shall have all unauthorized property, as outlined in 3334(g)(1) and 3334(g)(2), disposed of as provided in section 3191(c).

(h) Canteen. BMU inmates will be allowed only one (1) draw per month. Canteen privileges shall be established by the Classification Committee as follows:

Step 1—One fourth the maximum monthly canteen draw as authorized in section 3044(f).

Step 2—One fourth the maximum monthly canteen draw as authorized in section 3044(f).

Step 3—One half the maximum monthly canteen draw as authorized in section 3044(e).

(i) Vendor packages are authorized for receipt by inmates housed within the BMU in accordance with their privilege group status as provided in section 3044(c).

(j) Mental Health Services. BMU inmates will be seen by the Mental Health Department in accordance with normal GP treatment expectations as outlined within the Mental Health Services Delivery System (MHSDS). A Mental Health clinician shall attend the Classification Committee for all initial reviews in order to assess the appropriateness of BMU placement for an inmate included in the MHSDS. Inmates currently at the Enhanced Out Patient (EOP) level of care are not eligible for BMU placement.

(k) Visits. BMU inmates are permitted visits with their approved visitors. All visits for inmates at Step 1 and 2 will be non-contact, this includes attorney visits. Inmates at Step 3 will be afforded contact visits.

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

HISTORY:

1. New article 6.5 (section 3334) and section filed 7-8-2008 as an emergency; operative 7-8-2008 (Register 2008, No. 28). Pursuant to Penal Code section 5058.3(a)(1), a Certificate of Compliance must be transmitted to OAL by 12-15-2008 or emergency language will be repealed by operation of law on the following day.

Article 7. Segregation Housing

3335. Administrative Segregation.

(a) When an inmate's presence in an institution's general inmate population presents an immediate threat to the safety of the inmate or others, endangers institution security or jeopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity, the inmate shall be immediately removed from general population and be placed in administrative segregation. Administrative segregation may be accomplished by confinement in a designated segregation unit or, in an emergency, to any single cell unit capable of providing secure segregation.

(b) Temporary Segregation. Pending a classification committee determination of the inmate's housing assignment, which may include assignment to one of the segregation program units specified in section 3341.5 of these regulations or to the general inmate population, an inmate may be placed in a designated temporary housing unit under provisions of sections 3336–3341 of these regulations.

(c) An inmate's placement in segregation shall be reviewed by the Institutional Classification Committee (ICC) within 10 days of receipt in the unit and under provisions of section 3338(a) of these regulations. Action shall be taken to retain the inmate in segregation or release to general population.

(d) When, pursuant to this section, an ICC retains an inmate on segregation status, the case shall be referred to a Classification Staff Representative (CSR) for review and approval. Unless otherwise directed by the CSR, subsequent ICC reviews shall proceed in accordance with the following timelines until the inmate is removed from segregation status:

(1) At intervals of not more than 90 days until pending Division C, D, E, or F rules violation report is adjudicated. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days. At that time, if no further matters are pending, but continued segregation retention is required pending transfer to a general population, ICC reviews shall be within at least every 90 days until the transfer can be accomplished.

(2) At intervals of not more than 180 days until a pending Division A-1, A-2, or B rules violation report is adjudicated, a court proceeding resulting from a referral to the district attorney for possible prosecution is resolved, or the gang validation investigation process is complete. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days.

(3) At intervals of not more than 180 days until completion of the pending investigation of serious misconduct or criminal activity, excluding gang validation, or pending resolution of safety and security issues, or investigation of non-disciplinary reasons for segregation placement. Should the completed investigation result in the issuance of a Rules Violation Report and/or a referral to the district attorney for criminal prosecution, an ICC shall review the case in accordance with the schedule set forth in subsections (1), (2), or (3) above. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days. At that time, if no further matters are pending, but continued segregation placement is required pending transfer to a general population, ICC reviews shall be at least every 90 days until transfer can be accomplished.

(e) Inmate retention in administrative segregation beyond the initial segregation ICC hearing shall be referred for CSR review and approval within 30 days and then thereafter in accordance with subsection (d) above. In initiating such reviews an ICC shall recommend one of the following possible outcomes:

(1) Transfer to another institution in accordance with section 3379.

(2) Transfer to a Segregated Program Housing Unit in accordance with section 3341.5.

(3) Retention in segregation pending completion of an active investigation into an alleged violation of the rules/disciplinary process, an investigation of other matters, or resolution of criminal prosecution. In such instances an ICC shall offer a reasonable projection of the time remaining for the resolution of such matters.

(f) Subsequent to CSR approval of an extension of segregation retention, an ICC will schedule the case for future CSR review in a time frame consistent with the projection(s) made in accordance with subsection (d) above.

(g) Inmates in segregation who have approved Security Housing Unit (SHU) term status, but are still awaiting other processes (i.e., court proceedings, adjudication of other rule violation reports, gang validation, etc.), shall be reviewed by an ICC in accordance with the SHU classification process noted in subsection 3341.8.

(h) The need for a change in housing or yard status of any inmate segregated under the provisions of this article shall be reviewed at the next convened ICC hearing.

(i) All classification committee actions shall be documented, including a specific record of the inmate's participation, an explanation of the reason(s), and the information and evidence relied upon for the action taken. The inmate shall be provided copies of the completed forms relied upon in making the decisions affecting the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Wright* v. *Enomoto,* (1976) 462 F Supp 397; and *Toussaint* v. *McCarthy* (9th Cir. 1986) 801 F2d 1080, cert. denied, 481 U.S. 1069.

HISTORY:

1. Repealer of Article 7 (Sections 3340–3357) and new Article 7 (Sections 3335–3345) filed 4-18-80; effective thirtieth day thereafter (Register 80 No. 16). For prior history see Registers 76, No. 31; 77, No. 9; 78, No. 25; and 79, No. 34.
2. Amendment of subsection (b) filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).
3. Amendment filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
4. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
5. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
6. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
7. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
8. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
9. Amendment of article heading and subsection (c), repealer of subsections (c)(1)–(c)(1)(B), new subsections (d)–(i) and amendment of Note filed 6-15-2005 as an emergency pursuant to Penal Code section 5058.3; operative 6-15-2005 (Register 2005, No. 24). A Certificate of Compliance must be transmitted to OAL by 11-22-2005 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of subsection (d)(3) and History 9 (Register 2005, No. 50).
11. Certificate of Compliance as to 6-15-2005 order transmitted to OAL 10-31-2005 and filed 12-15-2005 (Register 2005, No. 50).

3336. Segregation Order.

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.

(a) The reasons 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) by the official ordering the action at the time the action is taken.

(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 in the CDC Form 114-D 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.

(c) In assigning staff assistance, the official initiating the CDC Form 114-D 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, the words ''assigned caseworker'' will be entered on the form.

(d) A copy of the CDC Form 114-D, 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 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 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.

HISTORY:

1. Change without regulatory effect amending first paragraph filed 3-22-2001 pursuant to section 100, Title 1, California Code of Regulations (Register 2001, No. 12).

3337. Review of Segregation Order.

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. 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. 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.

(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, 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.

(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.

(a) A classification hearing for consideration and determination of the need to retain an inmate in segregated housing, for the reasons set forth in a segregation order, CDC Form 114-D, 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, 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, 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 director'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, 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, 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.

(f) When the reason for an inmate's placement in administrative segregation is for nondisciplinary reasons, the hearing will consider all available evidence or information relating to the validity of the reasons given for such placement as well as the need to retain the inmate in administrative segregation pending resolution of the situation or circumstances set forth in the administrative segregation order.

(g) All cases of nondisciplinary administratively segregated inmates referred to the institution's main classification committee in place of an initial hearing on a segregation order or for a review of an initial hearing decision, will require the inmate's personal appearance except under the applicable conditions for absentia hearings as described in section 3320(g) of the director's rules.

(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, and in the classification committee's report (CDC Form 128-G) 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, and in the classification committee report, CDC Form 128-G, 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 and any CDC Form 128-G 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).

HISTORY:

1. Amendment of subsections (a)(2) and (a)(3) filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Change without regulatory effect amending subsections (c) and (g) filed 5-7-96; operative 6-6-96 (Register 96, No. 19).
3. Change without regulatory effect amending subsection (b) filed 7-30-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 31).
4. Change without regulatory effect amending subsection (b) filed 8-6-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 32).

3339. Release from Administrative Segregation and Retention in Administrative Segregation.

(a) Release: Release from segregation status shall occur at the earliest possible time in keeping with the circumstances and reasons for the inmate's initial placement in administrative segregation. Nothing in this article shall prevent the official ordering an inmate's placement in administrative segregation, or a staff member of higher rank in the same chain of command, from withdrawing an administrative segregation order before it is acted upon or prior to a hearing on the order after consulting with and obtaining the concurrence of the administrator of the general population unit to which the inmate will be returned or assigned. Release from segregated housing after such placement shall be effected only upon the written order of an equal or higher authority.

(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) A segregated housing order, CDC Form 114-D, 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.

(2) A fair hearing before one or more classification officials shall be held not more than 96 hours after the inmate is given a copy of the segregated housing order, unless the inmate requests, in writing, and is granted additional time to prepare a defense.

(3) Representation by a staff assistant shall be provided if institution officials determine that the inmate is illiterate or that the complexity of the issues make it unlikely that the inmate can collect or present the evidence necessary for an adequate comprehension of the case. The determination and designation is to be made at the time the segregated housing order is prepared and shall be included on the copy of the order given the inmate.

(4) The inmate shall be given a reasonable opportunity to present witnesses and documentary evidence unless institution officials determine in good faith that presentation of the evidence would be unduly hazardous to institutional safety or correctional goals. The reason for disallowing designated evidence will be explained in writing by the hearing body on the segregated housing order.

(5) A copy of the completed segregated housing order 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.

HISTORY:

1. Repealer and new section filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Editorial correction of printing error in subsection (b)(2) (Register 92, No. 5).

3340. Exclusions.

Separation from general population for the reasons and under the circumstances described in this section is not considered administrative segregation and is specifically excluded from the other provisions of this article.

(a) Medical. When an inmate is involuntarily removed from general inmate status for medical or psychiatric reasons by order of medical staff and the inmate's placement is in a hospital setting or in other housing as a medical quarantine, the inmate will not be deemed as segregated for the purpose of this article. When personnel other than medical staff order an inmate placed in administrative segregation for reasons related to apparent medical or psychiatric problems, that information will be immediately brought to the attention of medical staff. The appropriateness of administrative segregation or the need for movement to a hospital setting will be determined by medical staff. When medical and psychiatric reasons are involved, but are not the primary reasons for an inmate's placement in administrative segregation, administrative segregation status will be continued if the inmate is moved to a hospital setting and the requirements of this article will apply.

(b) Orientation and Lay-Over. Newly received inmates and inmates in transit or lay-over status may be restricted to assigned quarters for that purpose. Such restrictions should not be more confining than is required for institution security and the safety of persons, nor for a period longer than the minimum time required to evaluate the safety and security factors and reassignment to more appropriate housing.

(c) Disciplinary Detention. Placement in disciplinary detention as an ordered action of a disciplinary hearing is not subject to the provisions of this article except as provided in section 3338(a)(2) and (3).

(d) Confinement to Quarters. Confinement to quarters as an ordered action of a disciplinary hearing is not subject to the provisions of this article.

(e) Segregated Inmates. When an inmate has been classified for segregated housing in accordance with this article and commits a disciplinary offense while so confined, or is returned to segregated housing upon completion of a disciplinary detention sentence for an offense committed in a segregated unit, the provision of this article will not apply.

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

3341. Staff Assistance.

The duties and functions of a staff member assigned to assist an inmate in a classification hearing on a segregated housing order will be the same as described in section 3318 for a disciplinary hearing. When an inmate requests witnesses at a classification hearing on a segregation order and an investigative employee is assigned, the investigative employee's duties and functions will be essentially the same as described in section 3318 for predisciplinary hearing investigations. In screening prospective witnesses, the investigative employee will do so in accordance with the information to be considered in the classification hearing, as described in section 3338(e) and (f).

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

HISTORY:

1. Editorial correction removing extraneous text (Register 97, No. 5).
2. Change without regulatory effect amending section filed 1-29-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 5).

3341.5. Segregated Program Housing Units.

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 a member or an affiliate of a prison gang.

(4) The inmate does not pose a threat to the safety or security of other inmates in the PHU.

(5) The inmate has specific, verified enemies identified on CDC Form 812 likely to and capable of causing the inmate great bodily harm if placed in general population.

(6) The inmate has notoriety likely to result in great bodily harm to the inmate if placed in general population.

(7) There is no alternative placement which can ensure the inmate's safety and provide the degree of control required for the inmate.

(8) It has been verified that the inmate is in present danger of great bodily harm. The inmate's uncorroborated personal report, the nature of the commitment offense or a record of prior protective custody housing shall not be the sole basis for protective housing unit placement.

(b) Psychiatric Services Unit (PSU). An inmate with a diagnosed psychiatric disorder not requiring inpatient hospital care, whose conduct threatens the safety of the inmate or others, may be housed in a PSU if the inmate is capable of participating in the unit's activities without undue risk to the safety of the inmate or others in the unit.

(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.

(1) Assignment criteria. The inmate has been found guilty of an offense for which a determinate term of confinement has been assessed or is deemed to be a threat to the safety of others or the security of the institution.

(2) Length of SHU Confinement. Assignment to a SHU may be for an indeterminate or for a fixed period of time.

(A) Indeterminate SHU Segregation.

1. An inmate assigned to a security housing unit on an indeterminate SHU term shall be reviewed by a classification committee at least every 180 days for consideration of release to the general inmate population. An investigative employee shall not be assigned at these periodic classification committee reviews.

2. Except as provided at section 3335(a), section 3378(d) and subsection (c)(5), a validated prison gang member or associate is deemed to be a severe threat to the safety of others or the security of the institution and will be placed in a SHU for an indeterminate term.

(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, and SHU Time Computation Table (see CDC Form 629-D, Rev. 7/88).

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, SHU Term Assessment Worksheet, 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 shall be 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 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.

5. Up to 45 days of a SHU inmate's clean conduct credits may be forfeited for disciplinary infractions that are not serious enough to warrant the assessment of a subsequent or concurrent SHU term. Such forfeiture may be assessed against credits already earned or future credits.

6. Consecutive SHU terms shall be assessed only for offenses occurring after commencement of a prior determinate SHU term.

7. The ICC may commute or suspend any portion of a determinate term. Once commuted, the term shall not be reimposed. If suspended, the period of suspension shall not exceed the length of the original term imposed. When either action occurs, the case shall be referred to a classification staff representative (CSR) with a placement recommendation.

8. The Unit Classification Committee shall conduct hearings on all determinate cases at least 30 days prior to their MERD or during the eleventh month from the date of placement, whichever comes first.

(3) Release from SHU. An inmate shall not be retained in SHU beyond the expiration of a determinate term or beyond 11 months, unless the classification committee has determined before such time that continuance in the SHU is required for one of the following reasons:

(A) The inmate has an unexpired MERD from SHU.

(B) Release of the inmate would severely endanger the lives of inmates or staff, the security of the institution, or the integrity of an investigation into suspected criminal activity or serious misconduct.

(C) The inmate has voluntarily requested continued retention in segregation.

(4) A validated prison gang member or associate shall be considered for release from a SHU, as provided above, after the inmate is verified as a gang dropout through a debriefing process.

(5) As provided at section 3378(e), the Departmental Review Board (DRB) may authorize SHU release for prison gang members or associates categorized as inactive. The term inactive means that the inmate has not been involved in gang activity for a minimum of six (6) years. Inmates categorized as inactive who are suitable for SHU release shall be transferred to the general population of a Level IV facility for a period of observation that shall be no greater than 12 months. Upon completion of the period of observation, the inmate shall be housed in a facility commensurate with his or her safety needs. In the absence of safety needs, the inmate shall be housed in a facility consistent with his or her classification score. The DRB is authorized to retain an inactive gang member or associate in a SHU based on the inmate's past or present level of influence in the gang, history of misconduct, history of criminal activity, or other factors indicating that the inmate poses a threat to other inmates or institutional security.

(6) As provided at section 3378(f), an inmate categorized as inactive or validated as a dropout of a prison gang and placed in the general population may be returned to segregation based upon one reliable source item identifying the inmate as a currently active gang member or associate of the prison gang with which the inmate was previously validated. Current activity is defined as, any documented gang activity within the past six (6) years. The procedures described in this Article shall be utilized for the removal of the inmate from the general population, the review of the initial segregation order, and all periodic reviews of the indeterminate SHU term.

(7) Determinate SHU terms shall only be served in a departmentally approved SHU or a facility specifically designated for that purpose.

(8) When an inmate is paroled while serving a determinate term, the remaining time on the term is automatically suspended. When an inmate returns to prison, either as a parole violator or with a new prison commitment, ICC shall evaluate the case for reimposition of the suspended determinate term. If reimposed, the term shall not exceed the time remaining on the term at the time of parole.

(9) SHU Term Assessment Chart (fixing of determinate confinement to SHU).

OFFENSE	TYPICAL TERM (Mos) Low	Expected	High
(A) Homicide:			
1. Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-inmate.	(36	48	60)
2. Murder, attempted murder, solicitation of murder, or voluntary manslaughter of an inmate.	(15	26	36)
(B) Violence Against Persons:			
1. Assault on a non-inmate with a weapon or physical force capable of causing mortal or serious injury.	(09	28	48)
2. Assault on an inmate with a weapon or physical force capable of causing mortal or serious injury.	(06	15	24)
3. Assault on a non-inmate with physical force insufficient to cause serious injury.	(06	12	18)
4. Assault on an inmate with physical force insufficient to cause serious injury.	(02	03	06)
5. Throwing a caustic substance on a non-inmate.	(02	03	04)
(C) Threat to Kill or Assault Persons:			
1. Use of non-inmate as hostage.	(18	27	36)
2. Threat to a non-inmate.	(02	05	09)
3. Threat to an inmate.	(02	03	04)
(D) Possession of a Weapon:			
1. Possession of a firearm or explosive device.	(18	27	36)
2. Possession of a weapon, other than a firearm or explosive device which has been manufactured or modified so as to have the obvious intent or capability of inflicting traumatic injury, and which is under the immediate or identifiable control of the inmate.	(06	10	15)
(E) Trafficking in Drugs: Distributing controlled substances in an institution or camp or causing controlled substances to be brought into an institution or camp for the purpose of distribution.	(06	09	12)
(F) Escape with Force or Attempted Escape with Force.	(09	16	24)
(G) Disturbance, Riot, or Strike:			
1. Leading a disturbance, riot, or strike.	(06	12	18)
2. Active participation in, or attempting to cause conditions likely to threaten institution security.	(02	04	06)
(H) Harassment of another person, group, or entity either directly or indirectly through the use of the mail or other means.	(06	12	18)
(I) Arson, Theft, Destruction of Property: Theft or destruction of State property where the loss or potential loss exceeds $10,000 or threatens the safety of others.	(02	08	12)
(J) Extortion and Bribery: extortion or bribery of a non-inmate.	(02	06	09)
(K) Sexual Misconduct			
1. Indecent Exposure	(03	06	09)
2. Sexual Disorderly Conduct (two or more offenses within a twelve month period)	(03	06	09)
(L) Refusal to Accept Assigned Housing	(03	06	09)
(M) Except as otherwise specified in this section, proven attempts to commit any of the above listed offenses shall receive one-half (1/2) of the term specified for that offense.			
(N) Any inmate who conspires to commit any of the offenses above shall receive the term specified for that offense.			

(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 Chrono, and SHU Term Assessment Worksheet, a copy of which shall be provided to the inmate.

(A) Factors in Mitigation.

1. The inmate has a minor or no prior disciplinary history.

2. The inmate has not been involved in prior acts of the same or of a similar nature.

3. The misconduct was situational and spontaneous as opposed to planned in nature.

4. The inmate was influenced by others to commit the offense.

5. The misconduct resulted, in part, from the inmate's fear for safety.

(B) Factors in Aggravation.

1. The inmate's prior disciplinary record includes acts of misconduct of the same or similar nature.

2. The misconduct was planned and executed as opposed to situational or spontaneous.

3. The misconduct for which a SHU term is being assessed resulted in a finding of guilty for more than one offense.

4. The inmate influenced others to commit serious disciplinary infractions during the time of the offense.

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).

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).

3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Editorial correction of printing errors in subsection (c)(2)(B)1 and CDC Forms 629-B and 629-D (Register 92, No. 5).
8. New subsection (c)(6)(H), subsection relettering, and amendment of Note filed 7-29-93 as an emergency; operative 7-29-93 (Register 93, No. 31). A Certificate of Compliance must be transmitted to OAL 11-26-93, or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 7-29-93 order transmitted to OAL 11-18-93 and filed 12-31-93 (Register 94, No. 1).
10. Amendment of subsection (c)(2)(B)1. and 4., new subsection (c)(2)(B)5. and subsection renumbering, repealer of form CDC 629-A, and new form CDC 629-A filed 2-8-96 as an emergency per Penal Code section 5058(e); operative 2-8-96 (Register 96, No. 6). A Certificate of Compliance must be transmitted to OAL by 7-18-96 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 2-8-96 order including amendment of form CDC 629-A transmitted to OAL 6-17-96 and filed 7-30-96 (Register 96, No. 31).
12. New subsection (c)(2)(A)1. designator, new subsections (c)(2)(A)2. and (c)(4) and subsection relettering filed 1-21-99 as an emergency; operative 1-21-99 (Register 99, No. 4). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-30-99 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 1-21-99 order transmitted to OAL 6-30-99 and filed 8-12-99 (Register 99, No. 33).
14. Amendment of subsections (c)(2)(A)1. and 2. and (c)(4), new subsections (c)(5) and (c)(6), subsection renumbering, amendment of newly designated subsection (c)(10) and amendment of Note filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
15. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).
16. Change without regulatory effect amending subsection (c)(2)(B)1. filed 10-16-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 42).
17. Amendment of subsection (c)(6) and Note filed 5-25-2006; operative 5-25-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).
18. Change without regulatory effect amending subsection (b) filed 6-27-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).
19. New subsections (c)(9)(K)–(c)(9)(K)2., subsection relettering and amendment of Note filed 2-23-2007 as an emergency; operative 2-23-2007 (Register 2007, No. 8). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 8-2-2007 or emergency language will be repealed by operation of law on the following day.
20. Certificate of Compliance as to 2-23-2007 order, including amendment of subsection (c)(9)(K)1.-2., transmitted to OAL 7-27-2007 and filed 9-5-2007 (Register 2007, No. 36).
21. New subsection (c)(9)(L) and subsection relettering filed 12-28-2007; operative 12-28-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 52).

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS

SHU TERM ASSESSMENT WORKSHEET
CDC 629-A (Rev 3/96)

CDC NUMBER	NAME (LAST, FIRST, MI)	INSTITUTION	UNIT

1. RULE VIOLATION RESULTING IN SHU TERM ASSESSMENT
(If more than one SHU assessable offense and no SHU term has been established, use most serious as base term and less serious as aggravation.)

a. Rule No._____ Date Issued_____ Title _____

b. Specific Act_____
(Must be an offense on SHU Term Assessment Chart.)

c. List range of months for the offense using SHU Time Computation Table..... LOW ___ EXP ___ HIGH ___

d. Enter "expected" (mid-range) years, months, days of confinement..... ___ YR ___ MO ___ DAYS

2. FACTORS IN MITIGATION AND AGGRAVATION
(Enter "NONE" for item 2c or indicate amount of time. Describe factors and document sources. Use only factors listed in the DOM 62050 or concurrent offenses.)

a. Mitigating Factors. Time subtracted for mitigations..... - ___ YR ___ MO ___ DAYS
1)
2)
3)

b. Aggravating Factors. Time added for aggravations..... + ___ YR ___ MO ___ DAYS
1)
2)
3)

c. Total time added or subtracted..... = ___ YR ___ MO ___ DAYS

3. TOTAL SHU CONFINEMENT TIME ASSESSED..... ___ YR ___ MO ___ DAYS
(Subtract or add time for mitigation or aggravation to expected, item 1d plus or minus 2c)

4. DATE OF ADMINISTRATIVE SEGREGATION CONFINEMENT/VIOLATION..... ___ YR ___ MO ___ DAY

5. MAXIMUM DATE OF RELEASE FROM SHU..... ___ YR ___ MO ___ DAY
(Add total time assessed to date of confinement, item 3 plus 4)

6. MINIMUM SHU CONFINEMENT TIME TO SERVE.....
(Enter 75% of the total SHU time (item 3) using the SHU Time Computation Table)
a. Date of confinement/violation (item 4)..... ___ YR ___ MO ___ DAYS

7. MINIMUM ELIGIBLE RELEASE DATE (MERD)..... ___ YR ___ MO ___ DAY
(Add the minimum SHU time to the date of confinement, item 6 plus 6a) ___ YR ___ MO ___ DAY

8. FORFEITURE OF GOOD CONDUCT CREDITS FOR SUBSEQUENT MISCONDUCT
(Enter "NONE" for item 8a or indicate the amount of time lost and describe and document the misconduct for which credit is being forfeited). SHU inmates may forfeit up to 45 days of clean conduct credits for each disciplinary infraction that is not serious enough to warrant the assessment of a subsequent or concurrent SHU term. Such forfeiture may be assessed against credits already earned or future credits.

a. Time forfeited for CDC 115 - Dated:_____ ..... ___ YR ___ MO ___ DAYS
1)
2)

b. ADJUSTED MERD Cannot Exceed MAXIMUM..... ___ YR ___ MO ___ DAY
(Add the amount of time forfeited to the prior MERD, item 7 plus 8a)

NAME AND TITLE OF STAFF COMPUTING TERM	DATE SIGNED	DATE ICC ESTABLISHED TERM

DISTRIBUTION ORIGINAL - CENTRAL FILE, YELLOW - INMATE, PINK - AUDITOR

SAMPLE

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS

ASSESSMENT OF SUBSEQUENT OR REIMPOSED SHU TERM WORKSHEET

CDC 629-B (9/90)

CDC NUMBER	NAME (LAST, FIRST, MI)	INSTITUTION	UNIT

1. **VIOLATION COMMITTED WHILE SECURITY HOUSING UNIT (SHU) TERM ACTIVE**

   a Rule No _____ Date Issued _____ Title _____

   b Specific Act _____
   (Must be an offense on SHU Term Assessment Chart)

2. **CONSECUTIVE SHU TERM CALCULATIONS**

   a Prior maximum SHU expiration date ..... ____ YR ____ MO ____ DAY
   (SHU Term Assessment Worksheet, item 3c)

   b. Enter total additional confinement time assessed..... ____ YR ____ MO ____ DAYS
   (Expected plus or minus Aggravation/Mitigation in years, months and days)

   c. New maximum expiration of term date..... ____ YR ____ MO ____ DAY
   (Add additional time to expiration date, item 2a plus 2b)

   d **New Minimum Eligible Release Date**..... ____ YR ____ MO ____ DAY
   (Add 75% of additional time to prior maximum expiration date using the SHU Time Computation Table, item 2a plus 2b)

3. **CONCURRENT SHU TERM CALCULATIONS**

   a. Date of new violation..... ____ YR ____ MO ____ DAY

   b. Enter total confinement time assessed..... ____ YR ____ MO ____ DAYS
   (Expected plus or minus Aggravation/Mitigation in years, months and days)

   c Expiration date of new violation..... ____ YR ____ MO ____ DAY
   (Add total assessed to violation date, item 3a plus 3b)

   d. Controlling Maximum SHU Expiration Date..... ____ YR ____ MO ____ DAY
   (Enter prior or new expiration date whichever is later)

   e. **Controlling Minimum Eligible Release Date**..... ____ YR ____ MO ____ DAY
   (Enter prior date or add 75% of assessed time to violation date if the new maximum is later, 75% of item 3b plus 3a)

4. **REIMPOSITION OF SHU TERM FROM PAROLE/DISCHARGE**

   a. Maximum SHU expiration date when paroled/discharged..... ____ YR ____ MO ____ DAY

   b Date paroled/discharged from SHU ..... ____ YR ____ MO ____ DAY

   c Maximum confinement time remaining when paroled/discharged..... ____ YR ____ MO ____ DAYS
   (Subtract date paroled from expiration date, item 4b from 4a)

   d Date of reconfinement in Administrative Segregation ..... ____ YR ____ MO ____ DAY

   e New maximum expiration date..... ____ YR ____ MO ____ DAY
   (Add time remaining to reconfinement date, item 4c to 4d)

   f Minimum release time remaining when paroled/discharged..... ____ YR ____ MO ____ DAY
   (Subtract date paroled, item 4b, from Prior **Minimum Eligible Release Date**)

   g. **New Minimum Eligible Release Date**..... ____ YR ____ MO ____ DAY
   (Add minimum time remaining to date of reconfinement, item 4f plus 4d)

NAME AND TITLE OF STAFF COMPUTING TERM	DATE	DATE ICC ESTABLISHED TERM

DISTRIBUTION. ORIGINAL CENTRAL FILE, YELLOW INMATE, PINK AUDITOR

SAMPLE

STATE OF CALIFORNIA
CDC 629-D (Rev 7/88)

DEPARTMENT OF CORRECTIONS

SHU TIME COMPUTATION TABLE

SHU TERM MOS	MERD TERM	SHU TERM CREDIT	SHU TERM MOS	MERD TERM	SHU TERM CREDIT	SHU TERM MOS	MERD TERM	SHU TERM CREDIT
2	1-15	0-15	47	35-8	11-22	92	60-0	23-0
3	2-8	0-22	48	36-0	12-0	93	69-23	23-7
4	3-0	1-0	49	36-23	12-7	94	70-15	23-15
5	3-23	1-7	50	37-15	12-15	95	71-8	23-22
6	4-15	1-15	51	38-8	12-22	96	72-0	24-0
7	5-8	1-22	52	39-0	13-0	97	72-23	24-7
8	6-0	2-0	53	39-23	13-7	98	73-15	24-15
9	6-23	2-7	54	40-15	13-15	99	74-8	24-22
10	7-15	2-15	55	41-8	13-22	100	75-0	25-0
11	8-8	2-22	56	42-0	14-0	101	75-23	25-7
12	9-0	3-0	57	42-23	14-7	102	76-15	25-15
13	9-23	3-7	58	43-15	14-15	103	77-8	25-22
14	10-15	3-15	59	44-8	14-22	104	78-0	26-0
15	11-8	3-22	60	45-0	15-0	105	78-23	26-7
16	12-0	4-0	61	45-23	15-7	106	79-15	26-15
17	12-23	4-7	62	46-15	15-15	107	80-8	26-22
18	13-15	4-15	63	47-8	15-22	108	81-0	27-0
19	14-8	4-22	64	48-0	16-0	109	81-23	27-7
20	15-0	5-0	65	48-23	16-7	110	82-15	27-15
21	15-23	5-7	66	49-15	16-15	111	83-8	27-22
22	16-15	5-15	67	50-8	16-22	112	84-0	28-0
23	17-8	5-22	68	51-0	17-0	113	84-23	28-7
24	18-0	6-0	69	51-23	17-7	114	85-15	28-15
25	18-23	6-7	70	52-15	17-15	115	86-8	28-22
26	19-15	6-15	71	53-8	17-22	116	87-0	29-0
27	20-8	6-22	72	54-0	18-0	117	87-23	29-7
28	21-0	7-0	73	54-23	18-7	118	88-15	29-15
29	21-23	7-7	74	55-15	18-15	119	89-8	29-22
30	22-15	7-15	75	56-8	18-22	120	90-0	30-0
31	23-8	7-22	76	57-0	19-0	121	90-23	30-7
32	24-0	8-0	77	57-23	19-7	122	91-15	30-15
33	24-23	8-7	78	58-15	19-15	123	92-8	30-22
34	25-15	8-15	79	59-8	19-22	124	93-0	31-0
35	26-8	8-22	80	60-0	20-0	125	93-23	31-7
36	27-0	9-0	81	60-23	20-7	126	94-15	31-15
37	27-23	9-7	82	61-15	20-15	127	95-8	31-22
38	28-15	9-15	83	62-8	20-22	128	96-0	32-0
39	29-8	9-22	84	63-0	21-0	129	96-23	32-7
40	30-0	10-0	85	63-23	21-7	130	97-15	32-15
41	30-23	10-7	86	64-15	21-15	131	98-8	32-22
42	31-15	10-15	87	65-8	21-22			
43	32-8	10-22	88	66-0	22-0			
44	33-0	11-0	89	66-23	22-7			
45	33-23	11-7	90	67-15	22-15			
46	34-15	11-15	91	68-8	22-22			

NOTE: For purposes of computing remainder days, thirty (30) days constitute a month.

3342. Case Review.

(a) The case of every inmate assigned to a segregated housing unit will be continuously reviewed and evaluated by custodial and casework staff assigned to the unit. Staff will confer on each case no less frequently than once a week during the first two months of the inmate's segregated status. Such case reviews will not be necessary during any week in which the inmate's case is reviewed by a regular or special classification committee or by staff who are authorized to take classification actions. Any significant observations, determinations or recommendations, will be documented on the inmate's Detention/Segregation Record, CDC Form 114-A.

(b) Psychological Assessment. A psychological assessment of the inmate's mental health will be included in the case review and classification committee review of inmates assigned to segregated housing units. When any indication of psychiatric or psychological problems exists, the case will be referred to the institution's psychiatrist or psychologist for further evaluation and recommended classification committee actions, if any.

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

3343. Conditions of Segregated Housing.

(a) Living Conditions. In keeping with the special purpose of a segregated housing unit, and with the degree of security, control and supervision required to serve that purpose, the physical facilities of special purpose segregated housing will approximate those of the general population.

(b) Restrictions. Whenever an inmate in administrative segregation is deprived of any usually authorized item or activity and the action and reason for that action is not otherwise documented and available for review by administrative and other concerned staff, a report of the action will be made and forwarded to the unit administrator as soon as possible.

(c) Clothing. No inmate in administrative segregation will be required to wear clothing that significantly differs from that worn by other inmates in the unit, except that temporary adjustments may be made in an inmate's clothing as is necessary for security reasons or to protect the inmate from self-inflicted harm. No inmate will be clothed in any manner intended to degrade the inmate.

(d) Meals. Inmates assigned to administrative segregation including special purpose segregated housing, will be fed the same meal and ration as is provided for inmates of the general population, except that a sandwich meal may be served for lunch. Deprivation of food will not be used as punishment.

(e) Mail. Inmates assigned to administrative segregation, including special purpose segregated housing, will not be restricted in their sending and receiving of personal mail, except that incoming packages may be limited in number, and in content to that property permitted in the segregated unit to which an inmate is assigned.

(f) Visits. Inmates assigned to segregated housing, except for inmates assigned to security housing units in accordance with Section 3341.5, shall be permitted to visit under the same conditions as are permitted inmates of the general population. Inmates assigned to security housing units shall be prohibited from physical contact with visitors.

(g) Personal Cleanliness. Inmates assigned to administrative segregation, including special purpose segregated housing, will be provided the means to keep themselves clean and well-groomed. Haircuts will be provided as needed. Showering and shaving will be permitted at least three times a week. Clothing, bedding, linen and other laundry items will be issued and exchanged no less often than is provided for general population inmates.

(h) Exercise. Inmates assigned to special purpose segregation housing will be permitted a minimum of one hour per day, five days a week, of exercise outside their rooms or cells unless security and safety considerations preclude such activity. When special purpose segregated housing units are equipped with their own recreation yard, the yard periods may substitute for other out of cell exercise periods, providing the opportunity for use of the yard is available at least three days per week for a total of not less than 10 hours a week.

(i) Reading Material. Inmates assigned to administrative segregation, including special purpose segregated housing, will be permitted to obtain and possess the same publications, books, magazines and newspapers as are inmates of the general population, except that the quantity may be limited for safety and security reasons. Library services will be provided and will represent a cross-section of material available to the general population.

(j) Telephones. Institutions will establish procedures for the making of outside telephone calls by inmates in administrative segregation. Such procedures will approximate those for the work/training incentive group to which the inmate is assigned, except that individual calls must be specifically approved by the supervisor in charge or the administrator of the unit before a call is made.

(k) Institution Programs and Services. Inmates assigned to segregated housing units will be permitted to participate and have access to such programs and services as can be reasonably provided within the unit without endangering security or the safety of persons. Such programs and services will include, but are not limited to: education, commissary, library services, social services, counseling, religious guidance and recreation.

(*l*) Visitation and Inspection. Inmates assigned to administrative segregation, including special purpose segregated units, will be seen daily by the custodial supervisor in charge of the unit and by a physician, registered nurse or medical technical assistant, and, by request, members of the program staff. A timely response should be given to such requests wherever reasonably possible.

(m) Management Disruptive Cases. Inmates assigned to segregated housing who persist in disruptive, destructive and dangerous behavior and who will not heed or respond to orders and warnings to desist, are subject to placement in a management cell, as provided in Section 3332(f).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601(d) and 5054, Penal Code.

HISTORY:

1. Amendment of subsections (e), (f) and (j) filed 2-16-83; effective thirtieth day thereafter (Register 83, No. 8).
2. Amendment of subsection (f) filed 8-15-89; operative 9-14-89 (Register 89, No. 33).

3344. Administrative Segregation Records.

(a) An Administrative Segregation Log, CDC Form 114, will be maintained in each administrative segregation unit, including special purpose segregated units. One Disciplinary Detention/Segregation Log may serve two or more special purpose units which are administered and supervised by the same staff members.

(b) A separate record will be maintained for each inmate assigned to administrative segregation, including special purpose segregated units. This record will be compiled on CDC Form 114-A, Detention/Segregation Record. In addition to the identifying information required on the form, all significant information relating to the inmate during the course of segregation, from reception to release, will be entered on the form in chronological order.

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

3345. Officer in Charge.

The custodial officer in charge of a disciplinary detention, segregation or security housing unit where inmates are segregated for disciplinary or administrative purposes, will insure that nothing is passed in or out of such units unless it has been thoroughly inspected; that no unauthorized visitors are permitted in such units;

that all laundry, shoes, clothing, or other materials and supplies going to or from the units are carefully inspected; that inmates needing medical attention receive it promptly; that all locks and bars are inspected and maintained in secure and proper working order; that proper precautions are taken in removing inmates from their cells and in passing them from place to place. The general welfare of inmates in segregated housing units and in all facilities therein will be properly maintained and regularly inspected to insure human decency and sanitation.

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

Article 7.5. Execution of Death Penalty

3349. Method of Execution.

(a) Inmates sentenced to death shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. Upon being served with the warrant of execution, the inmate shall be served with CDC Form 1801-B (4/98), Service of Execution Warrant, Warden's Initial Interview. The completed CDC Form 1801-B shall be transmitted to the warden.

(b) The inmate shall be notified of the opportunity for such selection and that, if the inmate does not choose either lethal gas or lethal injection within ten days after being served with the execution warrant, the penalty of death shall be imposed by lethal injection. The inmate's attestation to this service and notification shall be made in writing and witnesses utilizing the CDC Form 1801 (Rev. 4/98), Notification of Execution Date and Choice of Execution Method. The completed CDC Form 1801 shall be transmitted to the warden.

(c) The inmate's selection shall be made in writing and witnessed utilizing the CDC Form 1801-A (Rev. 4/98), Choice of Execution Method. The completed CDC Form 1801-A shall be transmitted to the warden.

(d) The inmate's selection shall be irrevocable, with the exception that, if the inmate sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the person again shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection, according to the procedures set forth in Sections (a), (b), and (c).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 3604, Penal Code.

HISTORY:

1. New article 7.5 and section filed 12-22-92 as an emergency; operative 1-1-93 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4-22-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-22-92 order transmitted to OAL 4-9-93 and filed 4-29-93 (Register 93, No. 18).
3. Amendment of section and repealer and new form CDC 1801 filed 12-10-98; operative 1-9-99 (Register 98, No. 50).

STATE OF CALIFORNIA

NOTIFICATION OF EXECUTION DATE AND CHOICE OF EXECUTION METHOD

CDC 1801 (Rev 4/98)

DEPARTMENT OF CORRECTIONS
DISTRIBUTION:
ORIG - WARDEN
YELLOW - CENTRAL FILE
PINK - INMATE

SAMPLE

On _____ I, _____,
MONTH, DATE, AND YEAR PRINT OR TYPE FULL NAME

was served Warrant of Execution number _____ issued by

_____ County Superior Court on _____.
NAME OF COUNTY MONTH, DATE, YEAR

It was explained to me that I have an execution date of _____
MONTH, DATE, YEAR

and that I may choose either lethal gas or lethal injection as the method of execution. I understand that I have ten days from the date of the service of the warrant, or until _____ to make this choice in writing to the Warden.
MONTH, DATE, YEAR

I also understand that if I do not make a choice, lethal injection will be the method of execution.

INMATE'S SIGNATURE	CDC NUMBER	DATE SIGNED
SIGNATURE OF WITNESS		DATE SIGNED

COMMENTS OF WITNESS

STATE OF CALIFORNIA
CHOICE OF EXECUTION METHOD
CDC 1801-A (Rev 4/98)

DEPARTMENT OF CORRECTIONS
DISTRIBUTION:
ORIG - WARDEN
YELLOW - CENTRAL FILE
PINK - INMATE

On_____, I,_____,
MONTH, DATE, YEAR WARRANT WAS SERVED PRINT OR TYPE FULL NAME

was served Warrant of Execution number_____ issued by the

_____County Superior Court on_____.
NAME OF COUNTY MONTH, DATE, YEAR

I have been notified that my execution date will be_____
MONTH, DATE, YEAR

and that I may choose either lethal gas or lethal injection as the method of execution.

I understand that I had ten days from the date the warrant was served, or until _____ to make this choice in writing to the Warden.
MONTH, DATE, YEAR

I also understand that if I do not make a choice, lethal injection will be the method of execution.

This is to notify the Warden that my choice is_____
LETHAL GAS OR LETHAL INJECTION

(either lethal gas or lethal injection).

INMATE'S SIGNATURE	CDC NUMBER	DATE SIGNED
SIGNATURE OF WITNESS		DATE SIGNED

COMMENTS OF WITNESS

SAMPLE

STATE OF CALIFORNIA
SERVICE OF EXECUTION WARRANT
WARDEN'S INITIAL INTERVIEW
CDC 1801 B (4/98)

DEPARTMENT OF CORRECTIONS

I, _____, have received a copy of the Warrant of Execution number
PRINT OR TYPE FULL NAME
_____ issued by _____ County Superior Court
NAME OF COUNTY
on _____. I have had an opportunity to discuss its ramifications and other related issues
MONTH, DAY, YEAR
with a prison administrator on _____. I understand that I am entitled to elect either lethal
MONTH, DAY, YEAR
gas or lethal injection as the method of my execution. I further understand I must make my choice in writing to the warden. If I do not choose either lethal gas or lethal injection within ten days after the service of this execution warrant, I understand the method of execution will be lethal injection. I further understand if I receive a stay of execution, I will again have the opportunity to choose the method of execution when I am served with another execution date. I understand I have an execution date of _____.
MONTH, DAY, YEAR

X_____
INMATE'S SIGNATURE

( ) Inmate has received a copy of the Warrant of Execution but refuses to sign for it.

X_____
INMATE'S SIGNATURE

( ) Inmate understands he may choose either lethal gas or lethal injection as the method of execution.

( ) Inmate understands he must make his choice in writing to the Warden within ten days after service of this execution warrant. This ten day period expires on _____.
MONTH, DAY, YEAR

( ) Inmate understands he will be reconvicted on the above date if the Warden has not received his written notice of choice.
( ) Inmate understands if he makes no choice, execution will be imposed by lethal injection.
( ) Inmate understands the nature of the document and the possible ramifications.
( ) Inmate has been in contact with legal counsel regarding this matter.
( ) Inmate understands he will be interviewed by psychiatric staff and a report of their findings will be filed.
( ) Inmate claims to be of the _____ faith.
( ) Inmate understands he will be interviewed by a chaplain and a nonspecific report will be filed.
( ) Inmate has had an explanation of the course of events set in motion by the Warrant of Execution.

INTERVIEWER'S OBSERVATION AND COMMENTS

WARDEN/DESIGNEE'S PRINTED NAME	WARDEN/DESIGNEE'S SIGNATURE	DATE SIGNED
WITNESS' PRINTED NAME	WITNESS' SIGNATURE	DATE SIGNED

SAMPLE

Article 8. Medical and Dental Services

3350. Provision of Medical Care and Definitions.

(a) The department shall only provide medical services for inmates, which are based on medical necessity and supported by outcome data as effective medical care. In the absence of available outcome data for a specific case, treatment will be based on the judgment of the physician that the treatment is considered effective for the purpose intended and is supported by diagnostic information and consultations with appropriate specialists. Treatments for conditions, which might otherwise be excluded, may be allowed pursuant to section 3350.1(d).

(b) For the purposes of this article, the following definitions apply:

(1) Medically Necessary means health care services that are determined by the attending physician to be reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain, and are supported by health outcome data as being effective medical care.

(2) Outcome Study means the definition, collection and analysis of comparable data, based on variations in treatment, concerning patient health assessment for purposes of improving outcomes and identifying cost-effective alternatives.

(3) Outcome Data mean statistics such as diagnoses, procedures, discharge status, length of hospital stay, morbidity and mortality of patients, that are collected and evaluated using science-based methodologies and expert clinical judgment for purposes of outcome studies.

(4) Severe pain means a degree of discomfort that significantly disables the patient from reasonable independent function.

(5) Significant illness and disability means any medical condition that causes or may cause if left untreated a severe limitation of function or ability to perform the daily activities of life or that may cause premature death.

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

HISTORY:

1. Repealer of Article 8 (Sections 3370–3372) and new Article 8 (Sections 3350–3359) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16). For prior history see Register 77, No. 9.
2. Amendment of article heading, section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
3. Amendment of section heading, relocation of subsections 3350(a)–(c) to 3350.2(a)–(c), and new Subsections (a)–(b)(3) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
6. Amendment of section heading, renumbering of subsections 3350(a)–(c) to 3350.2(a)–(c), and new subsections (a)–(b)(3) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2-21-96 order including amendment of subsection (a) and new subsections (b)(4) and (b)(5) transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3350.1. Medical and Dental Treatment/Service Exclusions.

(a) Treatment refers to attempted curative treatment and does not preclude palliative therapies to alleviate serious debilitating conditions such as pain management and nutritional support. Treatment shall not be provided for the following conditions:

(1) Conditions that improve on their own without treatment. Examples include, but are not limited to:

(A) Common cold.
(B) Mononucleosis.
(C) Viral hepatitis A.
(D) Viral pharyngitis.
(E) Mild sprains.

(2) Conditions that are not readily amenable to treatment, including, but not limited to, those which may be made worse by treatment with conventional medication or surgery, and those that are so advanced in the disease process that the outcome would not change with existing conventional or heroic treatment regimens. Examples include, but are not limited to:

(A) Multiple organ transplants.
(B) Temporomandibular joint dysfunction.
(C) Grossly metastatic cancer.

(3) Conditions that are cosmetic. Examples include, but are not limited to:

(A) Removal of tattoos.
(B) Removal of nontoxic goiter.
(C) Breast reduction or enlargement.
(D) Penile implants.

(b) Surgery not medically necessary shall not be provided. Examples include, but are not limited to:

(1) Castration.
(2) Vaginoplasty (except for Cystocele or Rectocele).
(3) Vasectomy.
(4) Tubal ligation

(c) Services that have no established outcome on morbidity or improved mortality for acute health conditions shall not be provided. Examples include, but are not limited to:

(1) Acupuncture.
(2) Orthoptics.
(3) Pleoptics.

(d) Treatment for those conditions that are excluded within these regulations may be provided in cases where all of the following criteria are met:

(1) The inmate's attending physician or dentist prescribes the treatment.

(2) The service is approved by the medical authorization review committee, or the dental authorization review committee, and the health care review committee. The decision of the review committee, as applicable, to approve an otherwise excluded service shall be based on:

(A) Available health and dental care outcome data supporting the effectiveness of the services as medical or dental treatment.

(B) Other factors, such as:

1. Coexisting medical or dental problems.
2. Acuity.
3. Length of the inmate's sentence.
4. Availability of the service.
5. Cost.

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

HISTORY:

1. New section, including relocation and amendment of old subsection 3354.1(a) to 3350.1(b), filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
4. New section, including renumbering and amendment of former subsection 3354.1(a) to 3350.1(b), filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-21-96 order including amendment of subsection (a), repealer of subsection (d)(2) and subsection renumbering, amendment of newly designated subsection (d)(2), repealer of newly designated subsection (d)(2)(A) and subsection relettering, and amendment of newly designated subsection (d)(2)(A) transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
6. Amendment of subsections (d)(1)–(d)(2)(A) and (d)(2)(B)1. filed 10-3-2006 as an emergency; operative 10-3-2006 (Register 2006, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-12-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 10-3-2006 order transmitted to OAL 3-7-2007 and filed 4-18-2007 (Register 2007, No. 16).

3350.2. Off-Site Health Care Treatment.

(a) Each facility shall maintain contractual arrangements with local off-site agencies for those health services deemed to be medically necessary as defined in section 3350(b)(1), and that are not provided within the facility. Such services may include medical, surgical, laboratory, radiological, dental, and other specialized services likely to be required for an inmate's health care.

(b) When medically necessary services are not available for an inmate within a facility, the facility's chief medical or dental officer may request the institution head's approval to temporarily place that inmate in a community medical facility for such services.

(c) In an extreme emergency when a physician is not on duty or immediately available, the senior custodial officer on duty may, with assistance of on-duty health care staff, place an inmate in a community medical facility. Such emergency action shall be reported to the facility's administrative and medical officers-of-the-day as soon as possible.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section, including relocation and amendment of old subsections 3350(a)–(c) to 3350.2(a)–(c), filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
4. New section, including renumbering of former subsection 3350(a)–(c) to 3350.2(a)–(c), filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3351. Inmate Refusal of Treatment.

(a) Health care treatment, including medication, shall not be forced over the objections of: a mentally competent inmate; the guardian of a mentally incompetent inmate; or a responsible relative of a minor inmate, except in an emergency, or as required to complete the examination or tests for tuberculosis infection, or to implement the treatment for tuberculosis disease, or unless the provisions of Probate Code sections 3200 et seq. or the procedures set forth in *Keyhea* v. *Rushen,* Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986, hereby incorporated by reference, are followed. An emergency exists when there is a sudden, marked change in an inmate's condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impracticable to first obtain consent. When an inmate has executed an advance directive, pursuant to Probate Code Sections 4600–4779 relating to the Durable Power of Attorney for Health Care, and Health and Safety Code sections 7185–7194.5 relating to the Natural Death Act, health care staff shall act in accordance with the provisions of that advance directive, as provided by law.

(b) An inmate may accept or decline any or all portions of a recommended dental treatment plan. The inmate's decision is reversible at any time and shall not prejudice future treatments. Refusals shall be documented for inclusion in the inmate's health record.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 5054, and 7570 et seq., Penal Code; Sections 3200 et seq., Probate Code; *Thor* v. *Superior Court* (Andrews) (1993) 21 Cal.Rptr.2d 357; *Keyhea* v. *Rushen,* Solano County Superior Court No. 67432, Order Granting Plantiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986; sections 4600–4779, Probate Code; and sections 7185–7194.5, Health and Safety Code.

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of section and Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section and Note filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1-3-95 order including amendment of subsection (a) and Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).
5. Amendment of section and Note refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
7. Amendment of section and Note filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.

8. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3352. Medical Authorization Review Committee.

(a) A medical authorization review (MAR) committee shall be established within each correctional treatment center's (CTC) service area. The committee shall meet as often as necessary to approve or disapprove requests for medical services otherwise excluded by these regulations.

(b) The committee shall:

1. Be composed of representatives from the health care staff of each institution within the CTC's service area.

2. Consist of not less than three service area staff physicians.

(c) Committee decisions shall be based on criteria established in section 3350.1(d). Committee decisions shall be documented in the inmate's health record. Those cases that receive committee approval, shall be forwarded along with all supporting documentation to the health care review (HCR) committee. The treating physician shall notify the inmate of the committee's decision.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
6. Amendment filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
7. Renumbering of former section 3352 to new section 3353 filed 7-9-96; operative 7-9-96 (Register 96, No. 28).
8. New section filed 7-9-96; operative 7-9-96 (Register 96, No. 28).

3352.1. Health Care Review Committee.

(a) The health care review (HCR) committee shall meet as often as necessary to review cases approved by the MAR committee for medical services and Dental Authorization Review (DAR) committee for dental services otherwise excluded by these criteria in section 3350.1(d).

(b) The HCR committee shall consist of, but not be limited to, the following:

(1) Assistant Deputy Director, Clinical Policy and Programs Branch, Division of Correctional Health Care Services (DCHCS).

(2) Statewide Medical Director, DCHCS.

(3) Deputy Director, Health Care Administrative Operations Branch, DCHCS.

(4) Statewide Dental Director, DCHCS.

(5) Selected Dental designees.

(6) Two selected specialist physicians.

(7) Nonvoting utilization management nurse, as necessary.

(c) Decisions to approve or deny an excluded service requires at least one of either the Assistant Deputy Director, Clinical Policy and Programs Branch, DCHCS, or the Deputy Director, Health Care Administrative Operations Branch, DCHCS, or their designee be in attendance at the applicable review committee. All decisions shall be documented in the inmate's health record.

(d) Decisions regarding medical services which have been referred by the MAR committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Medical Director, and the medical staff of the HCR. Decisions to approve or deny an excluded service shall be based upon a quorum of the majority of the above members. The treating physician shall notify the inmate of the committee's decision regarding medical services.

(e) Decisions regarding dental services which have been referred by the DAR committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Dental Director, and the dental staff of the HCR. Decisions to approve or deny an excluded service shall be based upon a quorum of the majority of the above members. The treating dentist shall notify the inmate of the committee's decision regarding dental services.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 7-9-96; operative 7-9-96 (Register 96, No. 28).
2. Amendment filed 10-3-2006 as an emergency; operative 10-3-2006 (Register 2006, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-12-2007 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-3-2006 order transmitted to OAL 3-7-2007 and filed 4-18-2007 (Register 2007, No. 16).

3352.2. Dental Authorization Review Committee.

(a) Each departmental institution shall establish a Dental Authorization Review (DAR) committee. The DAR shall be established for the purpose of:

(1) Approving or disapproving requests for otherwise excluded dental services,

(2) Reviewing treatment recommendations for special dental care needs, and

(3) Evaluating the cost efficiency and effectiveness of the dental services provided at the institution.

(b) Membership of the DAR shall be composed of representatives from each institution's dental care staff. DAR membership shall consist of the Chief Dentist, or designee, a Staff Dentist as Chairperson, and a Staff Dentist as Vice-Chairperson. Representatives from other institution services or divisions shall be invited, when appropriate, to committee meetings.

(c) DAR committee decisions shall be based upon the following criteria established in section 3350.1 (d). Committee decisions shall be documented in the inmate's unit health record. Cases that receive committee approval shall be forwarded, along with all supporting documentation, to the HCR. The treating dentist shall notify the inmate of the committee's decision.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. New section filed 10-3-2006 as an emergency; operative 10-3-2006 (Register 2006, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-12-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-3-2006 order transmitted to OAL 3-7-2007 and filed 4-18-2007 (Register 2007, No. 16).

3353. Informed Consent Requirement.

When unusual, serious or major health care procedures are indicated and time and circumstances permit, the inmate's specific written informed consent shall be obtained before treatment is

undertaken, except as otherwise provided in Sections 3351 and 3364. If the inmate or the inmate's guardian or responsible relative objects to the recommended treatment, such objection shall be documented for inclusion in the inmate's health record.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Amendment filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order including renumbering of former section 3352 to section 3353 and renumbering of former section 3353 to new section 3353.1 transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3353.1. Capacity for Informed Consent.

An inmate shall be considered capable of giving informed consent if in the opinion of health care staff the inmate is:

(a) Aware that there is a physiological disorder for which treatment or medication is recommended.

(b) Able to understand the nature, purpose and alternatives of the recommended treatment, medication, or health care procedures.

(c) Able to understand and reasonably discuss the possible side effects and any hazards associated with the recommended treatment, medication, or health care procedures. An inmate shall not be deemed incapable of informed consent solely because of being diagnosed as mentally disordered, abnormal, or mentally defective.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Certificate of Compliance as to 2-21-96 order including renumbering of former section 3353 to new section 3353.1 transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3354. Health Care Responsibilities and Limitations.

(a) Authorized staff. Only facility-employed health care staff, contractors paid to perform health services for the facility, or persons employed as health care consultants shall be permitted, within the scope of their licensure, to diagnose illness or, prescribe medication and health care treatment for inmates. No other personnel or inmates may do so.

(b) Inmate Workers. Only trained or certified inmates shall operate health care equipment. Inmates shall not be permitted to:

(1) Schedule appointments.

(2) Determine another inmate's access to health care services.

(3) Obtain blood samples.

(4) Administer blood.

(5) Introduce or discontinue intravenous infusions.

(6) Have access to surgical instruments, syringes, needles, medications, or health records except as otherwise specified in these regulations.

(7) Perform any task identified as a health care responsibility.

(c) Private Consultants. Health care personnel not employed by the department are not authorized to order treatment for an inmate. Such persons may offer opinions and recommendations for consideration by department health care staff as follows: An inmate or an inmate's responsible guardian or relative, or an attorney or other interested person wanting the inmate examined by a private physician, shall submit a written request to the institution head. The institution head shall, after consulting with the facility's chief medical officer grant the request unless convinced that specific case factors warrant denial. The fact of and reasons for such denial, and notice of the right to appeal the decision in writing to the director, shall be documented and given to the inmate or the person requesting the outside health care service. Costs of such private consultations or examinations shall be paid by the inmate or the person requesting the service.

(d) Emergency Health Care Attention. If an inmate is away from a facility for authorized reasons, such as assignment to a camp or transportation between institutions, becomes seriously ill or injured, emergency health care attention by available resources shall be obtained by the official in charge. Community physicians and hospitals shall be used if the inmate's condition does not permit prompt return to a department medical facility.

(e) Medical Sick Call. Each department facility confining inmates shall provide scheduled times and locations for general population inmates. A medical doctor, registered nurse, or medical technical assistant shall make daily visits to each nongeneral population housing unit to provide medical attention to inmates unable to use the sick call services provided for general population. Staff conducting sick call shall screen medical problems appearing to require further medical attention and shall evaluate requests for appointments with other medical staff. A facility physician shall personally visit each specialized housing unit at least once each week.

(f) Dental Sick Call: Routine dental treatment shall not be provided during sick call. Inmates requesting dental treatment shall be evaluated and scheduled into one of the following categories:

(1) Emergency care category: A dental emergency, as determined by health care staff, includes any medical or dental condition for which evaluation and treatment are necessary to prevent death, severe or permanent disability, or to alleviate disabling pain. Immediate treatment shall be provided and will be available to such inmates 24 hours a day, 7 days a week.

(2) Urgent care categories:

(A) Priority 1A: Inmates requiring treatment of an acute oral or maxillo-facial condition, which is likely to remain acute, worsen, or become life threatening without immediate intervention. Such inmates shall receive treatment within 24 hours of diagnosis and assignment to Dental Priority 1A.

(B) Priority 1B: Inmates requiring treatment for a sub-acute hard or soft tissue pathology. Such inmates shall receive treatment within 30 days of diagnosis and assignment to Dental Priority 1B.

(C) Priority 1C: Inmates requiring early treatment for any unusual hard or soft tissue pathology. Such inmates shall receive treatment within 60 days of diagnosis and assignment to Dental Priority 1C.

(3) Interceptive care category: Inmates shall have over 6 months remaining to serve on their sentence within the department, and be eligible for Priority 2 care regardless of oral health self-care. Such inmates shall receive treatment within 120 days of diagnosis and assignment to Priority 2 care.

(A) Priority 2A: Inmates requiring advanced caries or advanced periodontal pathology requiring the use of intermediate therapeutic or palliative agents or restorative materials, mechanical debridement, or surgical intervention.

(B) Priority 2B: Edentulous or essential edentulous, or with no posterior teeth in occlusion requiring a complete denture, or one or more missing anterior teeth resulting in the loss of anterior dental arch integrity, requiring a transitional anterior partial denture.

(C) Priority 2C: Moderate or advanced periodontitis requiring non-surgical deep scaling and root planing procedures.

(D) Priority 2D: Chronically symptomatic impacted tooth requiring removal or specialty referral. Surgical procedures for the elimination of pathology, or restoration of essential physiologic relationship.

(4) Routine rehabilitative care category: Inmates shall have over 12 months remaining to serve on their sentence within the department, and shall meet oral health self-care requirements. Such inmates shall receive treatment within one year of diagnosis and assignment to Priority 3 care.

(A) Priority 3A: Inmates requiring a maxillary or mandibular partial denture or both due to insufficient number of posterior teeth to masticate a regular diet.

(B) Priority 3B: Carious or fractured dentition requiring restoration with definitive restorative materials or transitional crowns.

(C) Priority 3C: Gingivitis or mild periodontitis requiring routine prophylaxis.

(D) Priority 3D: Definitive root canal treatment for non-vital, single rooted teeth, which are restorable with available restorative materials.

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

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of subsections (a), (b)(6)–(7), (c) and (d) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (a), (b)(6)–(7), (c) and (d) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No.8).
5. Amendment of section heading and subsections (a), (b)(6)–(7), (c) and (d) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
7. Amendment of subsections (f)–(f)(2), new subsections (f)(2)(A)–(C), amendment of subsection (f)(3) and new subsections (f)(3)(A)–(f)(4)(D) filed 10-3-2006 as an emergency; operative 10-3-2006 (Register 2006, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-12-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 10-3-2006 order transmitted to OAL 3-7-2007 and filed 4-18-2007 (Register 2007, No. 16).

3354.1. Elective Surgery.

Repealed.

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

HISTORY:

1. New section filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Repealer, including relocation of subsection 3354.1(a) to 3350.1(b), filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Repealer, including renumbering and amendment of subsections 3354.1(a) to 3350.1(b), filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3354.2. Inmate Copayment for Health Care Services.

(a) The terms below are defined for the purposes of this section:

(1) Inmate-initiated means that the inmate sought health care service through Department staff, or reported to health care staff for consultation and/or treatment without having first been contacted or scheduled by health care staff.

(2) Health care services means medical, mental health, dental, pharmaceutical, diagnostic and ancillary services to identify, diagnose, evaluate, and treat a medical, psychiatric, or dental condition.

(3) Health care staff means those persons licensed by the state to provide health care services, who are either employed by the Department or are under contract with the Department to provide health care services.

(b) Inmates shall be provided an opportunity to report an illness or any other health problem and receive an evaluation of the condition and medically necessary treatment and follow-up by health care staff.

(c) Inmates shall be charged and inmates shall pay a fee of five dollars ($5.00) for each inmate-initiated health care visit. The fee for this visit shall:

(1) Cover the evaluation, assessment, and medically necessary treatment, including follow-up services that relate to the initial condition and which are determined by health care staff to be necessary.

(2) Be charged to the trust account of the inmate. When the inmate is without sufficient funds at the time of the charge, and remains without sufficient funds for 30 days after this time, the inmate shall not be charged for any remaining balance of the fee.

(3) Be waived for the following:

(A) Emergencies: any medical or dental condition for which evaluation and therapy, as determined by health care staff, are immediately necessary to prevent death, severe or permanent disability, or to alleviate or lessen objectively apparent and disabling pain. Signs of objectively apparent and disabling pain may include, but are not limited to, visible injuries, high blood pressure, rapid heart rate, sweating, pallor, involuntary muscle spasms, nausea and vomiting, high fever, and facial swelling. Emergency also includes, as determined by health care staff,

necessary crisis intervention for inmates suffering from situational crises or acute episodes of mental illness.

(B) Diagnosis and treatment of communicable disease conditions as outlined in Title 17, Chapter 4, Subchapter 1, Section 2500 of the California Code of Regulations, including human immunodeficiency virus and Acquired Immunodeficiency Syndrome.

(C) Diagnosis and necessary mental health treatment for which there is a clinical determination of mental illness.

(D) Follow-up health care services defined as any request or recommendation by a member of the health care staff to provide subsequent health care services.

(E) Health care services necessary to comply with state law and/or regulations that shall include, but not be limited to, annual testing for tuberculosis.

(F) Reception center health screening and evaluation.

(G) Inpatient services, extended care, or skilled nursing services.

NOTE: Authority cited: Sections 5007.5 and 5058, Penal Code. Reference: Section 5054, Penal Code.

HISTORY:

1. New section filed 9-21-94 as an emergency; operative 9-21-94 (Register 94, No. 38). A Certificate of Compliance must be transmitted to OAL by 1-19-95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-21-94 order transmitted to OAL 1-18-95 and filed 2-27-95 (Register 95, No. 9).

3355. Health Care Examinations.

(a) Initial Examination. Every person newly committed or returned to the custody of the Secretary of the California Department of Corrections and Rehabilitation shall be examined by health care staff for contagious diseases, illness, or other health conditions within 24 hours of arrival. In addition, female inmates will also be screened for pregnancy.

(b) Transfers. Inmates received on transfer from other facilities shall be interviewed by health care staff at the receiving facility within 24 hours of arrival. The health record of each new arrival shall be reviewed to determine the need for previously prescribed medications or continuing treatment for unusual or chronic health problems. Sending facility health care staff shall notify the receiving facility and any anticipated layover facilities regarding any inmate's need, as in the case of diabetics, for maintenance medications while en route and after arrival.

(c) Camp Assignment. Inmates shall be personally screened by a medical officer before receiving medical clearance for assignment to a camp or fire fighting assignment. Such inmate shall be in generally good health and physically capable of strenuous and prolonged heavy labor without danger to the inmate's health and safety or the safety of others when involved in hazardous work such as forest firefighting. Exceptions: an inmate may be assigned to light duty non-hazardous work in camp if a department physician specifically approves such assignment.

(d) Releases. Each inmate shall be personally screened by health care staff prior to release to parole or discharge from a facility. Staff conducting such screening shall alert the inmate's parole agent regarding any current health problems and shall provide the inmate with any necessary maintenance medication until the releasee can obtain medication in the community.

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

HISTORY:

1. Amendment filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of section heading and subsections (b) and (d) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section heading and subsections (b) and (d) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Amendment of section heading and subsections (b) and (d) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order including amendment of subsection (b) transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
7. Amendment of subsection (a) filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

3355.1. Dental Examinations.

(a) Reception Centers. Inmates shall, during screening at a reception center, be provided only limited dental services necessary to meet basic needs. Such services shall include but are not limited to treatment of injuries, acute infection, severe pain, or spontaneous bleeding, and repairs to dental prosthetic appliances.

(b) Assigned Facility. Each newly committed inmate shall within 90 calendar days following transfer from a reception center to a program facility receive a complete examination by a dentist who shall develop an individual treatment plan for the inmate.

(1) When a treatment plan is proposed, the inmate shall be provided an explanation of its advantages and disadvantages.

(2) Each inmate's dental health history shall be documented at the time of initial examination and signed by the inmate and witnessed by a dental staff member. Such history shall be available and updated at each dental visit.

(3) An inmate unwilling to practice personal oral hygiene shall receive only that care necessary to relieve pain or treat infection. Routine treatment of nonacute oral conditions resulting from the inmate's neglect shall not be undertaken.

(c) Pregnant inmates shall receive, within the second trimester of gestation, a dental examination and cleaning, and a periodontal evaluation. Each pregnant inmate shall receive the necessary dental care that will maintain periodontal health during the gestation period.

(d) Reexamination. Each inmate under 50 years of age shall be examined at least once every two years. All other inmates shall be examined annually.

(e) Restraints. If an inmate requiring dental treatment also requires use of restraint gear, such restraints shall be selected to enable sitting in a dental chair and shall remain in place during the treatment. Exceptions require concurrence of the dentist, the escorting officer, and a lieutenant. For pregnant inmates, the rules provided in subsections 3268.2(b) and (d) concerning the use of restraints shall be followed.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3424 and 5054, Penal Code.

HISTORY:

1. New section filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of subsection (b) and new Note filed 4-18-2007; operative 4-18-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
3. New subsection (c), subsection relettering, amendment of newly designated subsection (e) and amendment of Note filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

3355.2. Treatment for Pregnant Inmates.

(a) Inmates identified as possibly being pregnant during the initial health examination will be scheduled for laboratory work to verify the pregnancy within three business days of arrival at the institution.

(b) Confirmed pregnant inmates, within seven days of arrival at the institution, will be scheduled for an obstetrics (OB) examination by an Obstetrical Physician or Obstetrical Nurse Practitioner (NP) wherein:

(1) A term of pregnancy and a plan of care will be determined.

(2) Diagnostic studies will be ordered, if needed.

(c) Pregnant inmates shall be scheduled OB visits as follows, unless otherwise indicated by the OB physician or NP:

(1) Every 4 weeks in the first trimester up to 24–26 weeks gestation.

(2) Every 3 weeks thereafter up to 30 weeks gestation.

(3) Every 2 weeks thereafter up to 36 weeks gestation.

(4) Weekly after 36 weeks up to delivery.

(d) Pregnant inmates housed in a multi-tier housing unit will be issued a CDC Form 7410 (Rev. 08/04), Comprehensive Accommodation Chrono, which is incorporated by reference, for lower bunk and lower tier housing.

(e) Pregnant inmates who have used heroin within three days prior to incarceration, either by her own admission or written documentation by a parole agent, or are currently receiving methadone treatment, shall be enrolled in the Methadone Maintenance Program and recommended for immediate transfer to the California Institution for Women.

(f) Community treatment programs. Any community treatment program developed for eligible pregnant and/or parenting female inmates in addition to the Family Foundations Program, shall include, but not be limited to:

(1) Prenatal care.

(2) Access to prenatal vitamins.

(3) Childbirth education.

(4) Infant care.

(g) Any inmate who gives birth after her receipt by the Department shall be provided notice of, and a written application for, a community treatment program. At a minimum, the notice shall contain:

(1) Guidelines for qualification.

(2) Timeframe for application.

(3) Process for appealing a denial of admittance.

(h) A pregnant inmate who is not eligible for a community treatment program shall have access to complete prenatal health care, which shall include:

(1) A balanced, nutritious diet per subsection 3050(a).

(2) Prenatal and postpartum information and health care, including, but not limited to, necessary vitamins as prescribed by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) Dental care pursuant to subsection 3355.1(c).

(i) Each pregnant inmate shall be referred to a Medical Social Worker. The Medical Social Worker shall:

(1) Discuss with the inmate, the options available for the placement and care of the child after delivery.

(2) Assist the pregnant inmate with access to a phone in order to contact relatives regarding newborn placement.

(3) Oversee the placement of the newborn child.

(j) A pregnant inmate may be temporarily taken to a hospital outside the institution for the purposes of childbirth and shall be transported in the least restrictive way pursuant to the rules provided in subsections 3268.2(b) and (d). A pregnant inmate in labor shall be treated as an emergency and shall be transported via ambulance to the outside facility, accompanied by custody staff.

(k) A pregnant inmate may elect to have a support person present during child birth. The support person may be an approved visitor or the institution's staff designated to assist with prenatal, labor and postpartum care. The approval for the support person will be made by the institution's Warden or designee. If a pregnant inmate's request for an elected support person is denied, reason for the denial shall be provided in writing to the inmate within 15 working days of receipt of the request. The written denial must address the safety/security concerns for the inmate, infant, public, and/or staff. Upon receipt of a written denial, the pregnant inmate may then choose the approved institution staff to act as the support person.

(*l*) Postpartum care. Upon return to the institution, any inmate who delivers a child via C-Section, shall be admitted to the Outpatient Hospital Unit (OHU) or Correctional Treatment Center (CTC). Any inmate who delivers a child vaginally shall be assessed in the Triage and Treatment Area (TTA) to determine the appropriate housing and to initiate postpartum care.

(1) Orders for routine postpartum care shall be initiated by the Registered Nurse (RN) in the TTA, CTC, or OHU.

(2) The Supervising Obstetrician or RN/NP shall:

(A) Determine when the inmate is cleared for housing in the general population.

(B) Complete the medical lay-in.

(3) The inmate shall have a six week postpartum examination. At the examination, the Supervising Obstetrician or RN/NP shall determine whether the inmate may be cleared for full duty or if medical restrictions are still warranted.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3419, 3423, 3424, 5007.7 and 5054, Penal Code.

HISTORY:

1. New section filed 3-6-2008; operative 4-5-2008 (Register 2008, No. 10).

3356. Health Care Treatment for Parolees.

(a) Community Treatment. Health care for parolees shall normally be provided by private physicians and community medical facilities, as desired by the parolee and at the parolee's own expense.

(b) Facility Treatment. When a parolee requires medical, surgical, psychiatric, or dental care of an emergency nature and community resources are not available or lack the security required for retention and treatment of the parolee, the parole district administrator may arrange with the facility chief medical or dental officer or the chief psychiatrist for the parolee's return to department custody for emergency treatment.

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

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of section heading and subsection (a) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section heading and subsection (a) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).

5. Amendment of section heading and subsection (a) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3357. Inmate Deaths.

(a) The institution head shall maintain a valid service agreement with local mortuaries to provide services such as cremation, transportation, and/or other services related to the disposition of a deceased inmate's body.

(b) When an inmate's death occurs away from an institution/facility, the body of the deceased shall, unless the county coroner orders otherwise, be released to a licensed funeral director in the community where the death occurred.

(c) If the deceased is known to have had a communicable disease which presents a threat to the public health and safety, health care staff shall notify the contract mortuary and public agencies as required by California Code of Regulations, Title 17, Section 2500, and Health and Safety Code Sections 1797.188 and 1797.189.

(d) A chaplain of the decedent's professed faith may perform a ceremony in accordance with that faith.

(e) Staff shall review the decedent's central file and locate the current CDC Form 127 (Rev. 05/00), Notification in Case of Inmate Death, Serious Injury, or Serious Illness to identify the inmate's next of kin or person(s) to be notified, and to determine the existence of a will.

(f) Staff shall attempt to notify individual(s) listed on the CDC Form 127 as the person(s) to be notified of the death, in person, or, if personal contact is not practical, by telephone. Staff shall send a telegram notification to the next of kin, person(s) to be notified as listed on the CDC Form 127, and/or legally appointed representative, offering consolation, which shall include:

(1) The name and address of the funeral director to whom the body has been or will be released;

(2) A request for instructions on disposition of the body at the family's or designee's expense, within 48 hours, to preclude disposition by the state; and

(3) The name and telephone number of a staff member who may be contacted for additional information.

(g) If after 10 days the next of kin or legally appointed representative fails to claim or direct disposition of the decedent's body, or notifies the department within ten days that he or she does not assume responsibility for burial without expense to the state, the decedent shall be considered unclaimed. If the body is unclaimed, the institution/facility shall make arrangements for use of state materials or services as necessary in accordance with Penal Code section 5061. All money and personal property shall be inventoried and released in accordance with Penal Code 5061, upon direction from the Associate Warden of Business Services or other staff designated by the institution head.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2082, 5021, 5022, 5054 and 5061, Penal Code; Sections 1797.188, 1797.189, 7104, 7200, 7201, and 7302, Health and Safety Code; and Sections 12525, 27491, 27491.2 and 27491.3, Government Code.

HISTORY:

1. Amendment filed 7-16-92; operative 8-15-92 (Register 92, No. 29).
2. Amendment of subsections (b), (c), (f) and Note filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (b), (c), (f) and Note refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
5. Amendment of subsections (b), (c), (f), and Note filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
7. Amendment of section and Note filed 8-28-2000; operative 9-27-2000 (Register 2000, No. 35).

3358. Artificial Appliances.

(a) Appliance Categories. Appliances include but are not limited to eyeglasses, artificial eyes, dental prosthesis, artificial limbs, orthopedic braces and shoes, and hearing aids. An inmate's need for such appliance shall be based on medical necessity as described in section 3350(b)(1).

(b) Possession of Appliance. No inmate shall be deprived of a prescribed orthopedic or prosthetic appliance in the inmate's possession upon arrival into the department's custody or properly obtained while in the department's custody unless a department physician or dentist determines the appliance is no longer needed and the inmate's personal physician, if any, concurs in that opinion.

(c) Purchase of Appliance. Prescribed appliances shall be provided at state expense if an inmate is indigent, otherwise the inmate shall purchase prescribed appliances through the department or a vendor of the inmate's choice as directed by the chief medical or dental officer. Departmental dentists shall not order prescribed dental appliances made from precious metal, and departmental dentists or dental laboratories shall not perform repairs to existing dental prosthesis made from precious metal. If an inmate's existing dental appliance made from precious metal needs repair, the dentist shall offer the inmate the option of having a new prosthesis made. When a prescribed appliance is to be provided, the inmate shall sign a CDC Form 193, Trust Account Withdrawal Order (Rev. 1/88), to pay for the materials.

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

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment of subsection (a) and repealer of subsections (a)(1)–(3) filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) and repealer of subsections (a)(1)–(3) refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).

5. Amendment of subsection (a) and repealer of subsections (a)(1)–(3) filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2-21-96 order including amendment of subsection (c) transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
7. Amendment of subsection (b) filed 10-3-2006 as an emergency; operative 10-3-2006 (Register 2006, No. 40). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-12-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 10-3-2006 order, including amendment of subsection (c), transmitted to OAL 3-7-2007 and filed 4-18-2007 (Register 2007, No. 16).

3359. Donation and Sale of Blood.

Institution heads may permit, subject to acceptance by a blood collection agency, inmates to donate blood for charitable and research purposes or to sell their blood only when needed blood cannot be reasonably and readily obtained from other sources. When a blood sale is authorized, the inmate must receive from the purchaser a payment equal to the current market price for purchases of the same type blood. The facility may impose an additional charge to the purchaser to retrieve the cost of department resources used in drawing the blood. Proceeds of such charges shall be deposited in the inmate welfare fund.

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

HISTORY:
1. Amendment filed 7-2-93; operative 8-2-93 (Register 93, No. 27).

Article 9. Mental Health Services

3360. Availability of Mental Health Services.

(a) The department will provide a broad range of mental health services to inmates and parolees by assessing the needs of its population and developing specialized programs of mental health care, to the extent resources are available for this purpose. Necessary and appropriate mental health services will be provided to inmates and parolees, and adequate staff and facilities will be maintained for the delivery of such services.

(b) When an inmate is found to require mental health care not available within these resources, but which is available in the Department of Mental Health, the case will be referred to the director for consideration of temporary transfer to that department pursuant to Penal Code section 2684.

(c) Recognizing that many parolees have unique treatment needs not readily met by community mental health programs, and that the promptness and appropriateness of those needs affect public safety, the department provides outpatient clinics for parolees. These clinics are conducted in widely distributed locations throughout the state at times and places such that they are available to parolees, and that they shall maintain close working relationships with parole supervisors, paroling authorities, and the community in which the parolee resides.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2684 and 5054, Penal Code.

HISTORY:
1. New Article 9 (Sections 3360–3369) filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).
2. Amendment of section heading and subsection (b) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-3-95 order including amendment of Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

3361. Responsibility.

(a) All required mental health treatment or diagnostic services shall be provided under the supervision of a psychiatrist licensed to practice in this state, or a psychologist licensed to practice in this state and who holds a doctoral degree and has at least two years of experience in the diagnosis and treatment of emotional and mental disorders. Facilities for mental health treatment and diagnostic services shall be under the direction of such a psychiatrist or psychologist. A psychiatrist shall be available to assume responsibility for all acts of diagnosis or treatment that may only be performed by a licensed physician and surgeon.

(b) When an inmate or an inmate's guardian or relative, or an attorney or other interested party desires to have an inmate examined by a private psychiatrist or other mental health professional, a request shall be submitted in writing by such person or persons to the warden. After consulting with the institution's chief psychiatrist or, in his absence, the chief medical officer, the warden will grant the request unless there are specific case factors which, in the judgment of the warden, warrant denial. If the request is denied, the person making the request will be notified in writing of the reason for the denial and the right to appeal the decision, to the director. Any financial responsibility or obligation for private consultants or examinations will be assumed by the inmate or the person requesting the service. Private consultants will not be permitted to order mental health treatment for any inmate. However, the private consultant may be asked to make a report of findings and recommendations to the warden.

(c) Recognizing that mental health care often involves revealing deeply personal and private matters, all mental health care shall be provided in such a manner as to maintain the dignity of the inmate. Professional relationships shall be conducted with proper privacy, with due regard for the professional to take necessary and appropriate action to prevent harm to the patient or to others. Records of mental health diagnosis, evaluation and treatment prepared or maintained by the department shall remain the property of the department and are subject to all applicable laws governing their confidentiality and disclosure. Treatment will be in accord with sound principles of practice and will not serve a punitive purpose.

NOTE: Authority cited: Sections 5058 and 5079, Penal Code. Reference: Section 5054, Penal Code.

HISTORY:
1. Editorial correction of printing error in subsection (a) (Register 92, No. 5).
2. Amendment of subsections (b) and (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-3-95 order including amendment of section and Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

3362. Availability of Treatment.

All persons committed to the department shall be informed that mental health services are available to them. They shall be informed that, upon their request, an evaluative interview will be provided within a reasonable period of time by a licensed practitioner, or a specially trained counselor supervised by a licensed practitioner. Upon request, they will be provided with information as to what specialized treatment programs may be available in the department and how such treatment may be obtained.

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

3363. Right to Refuse Treatment.

Inmates/Parolees shall be informed any time they are the object of particular mental health diagnosis or treatment procedures. Such

persons shall have the right to refuse assignment to such a program of diagnosis or treatment without being subject to discipline or other deprivation, except as indicated in the following:

(a) When mental health evaluation is required by law or ordered by a court.

(b) When an inmate is placed in a mental health program for diagnostic study by the action of a classification committee, which acted upon documented information or observations that gave reasonable cause to believe the inmate was suffering from a mental illness which poses a danger to self or others, or is gravely disabled. A physician or other licensed practitioner may act in an emergency situation to place an inmate in psychiatric segregation under observation and treatment for a period of up to five working days pending classification action, providing the reasons for this action are documented.

(c) When diagnostic study has led to a diagnosis of existing or recurrent mental illness, which renders the inmate dangerous to self or others, or gravely disabled.

(d) If there is a special condition of parole requiring attendance at a parole outpatient clinic, interviews may be imposed upon the parolee. However, no medication will be administered by these clinics without the specific informed consent of the patient.

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

HISTORY:

1. Amendment of first paragraph and subsections (b) and (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-3-95 order transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

3364. Involuntary Medication.

(a) If medication used in the treatment of mental disease, disorder or defect is administered in an emergency, as that term is defined in section 3351, such medication shall only be that which is required to treat the emergency condition and shall be provided in ways that are least restrictive of the personal liberty of the inmate. If it is determined that further administration of such medication involuntarily is necessary for a period of longer than 72 hours, the following provisions shall be followed:

(1) The administration of involuntary medication to inmates in excess of three days shall be in compliance with those procedures required in *Keyhea* v. *Rushen,* Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986.

(2) The administration of involuntary medication to inmates in excess of ten days shall be in compliance with those procedures required in *Keyhea* v. *Rushen,* supra.

(3) The administration of involuntary medication to inmates in excess of 24 days shall be in compliance with those procedures required in *Keyhea* v. *Rushen,* supra. The judicial hearing for the authorization for the involuntary administration of psychotropic medication provided for in part III of *Keyhea* v. *Rushen,* supra, shall be conducted by an administrative law judge. The hearing may, at the direction of the director, be conducted at the facility where the inmate is located.

(b) Involuntary antipsychotic medication shall not normally be administered to an inmate in his or her housing unit. An inmate shall normally be transferred to the hospital, clinic, emergency room or infirmary room at the institution prior to the administration of the medication. If a psychiatrist determines that the prior transfer of the inmate to such a setting would pose a greater risk to the inmate and staff than the risk involved to the inmate in receiving the medication in a non-medical setting, the involuntary medication may be administered in the inmate's cell, provided that:

(1) Medical staff shall alert security staff, orally and in writing, of the fact that such medication has been administered, of the date and time of administration, of possible side-effects, if any, which could develop, and shall provide security staff with instructions for contacting medical staff immediately upon the development of any such side effects. On-call medical staff shall make periodic observations of the inmate and shall respond to any emergency request for medical aid.

(2) In all cases where it is both feasible and medically desirable, a fast-acting medication shall be utilized to facilitate the inmate's rapid transfer to a medical setting.

(3) The inmate shall be considered for transfer from his or her cell to a medical setting at least once a day after the injection by a staff psychiatrist, or if a psychiatrist is not available by a staff physician, for the effective duration of the medication. The staff psychiatrist or physician shall note his or her observations and decision in writing. The inmate shall be transferred to a medical setting no later than 72 hours after the injection if the effective duration of the drug administered exceeds that time period.

(c) Each institution's chief psychiatrist, or in his or her absence, chief medical officer, shall ensure that a log is maintained in which is recorded each occasion of involuntary treatment of any inmate. The log entries shall identify the inmate by name and number, and shall include the name of the ordering physician, the reason for medication, and the time and date of medication. In institutions with a designated psychiatric treatment unit, a separate log shall be maintained for recording involuntary treatment and medication administered to inmates in that unit. The log shall be reviewed by the institution's chief psychiatrist, or in his or her absence, the chief medical officer, at least monthly. Such logs shall be made available for review by the departmental medical director upon request.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 5054, Penal Code; *Whitaker* v. *Rushen, et al.,* USDC No. C-81-3284 SAW (N.D. Cal.); and *Keyhea* v. *Rushen,* Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986.

HISTORY:

1. Amendment filed 8-4-86; effective thirtieth day thereafter (Register 86, No. 32).
2. Repealer and new subsection (a), new subsections (a)(1)–(3), amendment of subsection (b), repealer of subsections (c)–(e), subsection relettering, and amendment of newly designated subsection (c) and Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-3-95 order including amendment of subsections (a)–(a)(3) and Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

3365. Suicide Prevention and Response.

(a) Each institution head shall ensure that all employees whose assignments routinely involve inmate contact are trained to recognize signs and symptoms associated with suicide risk, the appropriate procedures for staff intervention, and the appropriate procedures to be followed in response to emergency situations resulting from self-injurious or suicidal actions. This training shall be conducted as in-service training, in compliance with Section 3435.

(b) Each institution head shall implement a Suicide Prevention Program for inmates who display self-injurious or suicidal behavior or symptoms. These programs shall include the following components:

(1) Suicide Watch. When medical staff determine that an inmate is actively suicidal, a licensed physician or psychologist shall order placement of the inmate on suicide watch in a General Acute Care Hospital (GACH), Correctional Treatment Center (CTC), Skilled Nursing Facility (SNF), Outpatient Housing Unit (OHU), or other appropriate health care facility, for continual observation.

(2) Suicide Precaution. When medical staff determine that an inmate is at high risk of attempting self-injurious behavior, a licensed physician or psychologist shall order placement of the inmate on suicide precaution in a GACH, CTC, SNF, OHU, or other appropriate health care facility, for periodic monitoring.

(3) Follow-up Treatment. Discharge from suicide watch or suicide precaution shall occur when an interdisciplinary team of clinicians determines that the inmate no longer presents a suicide risk. A written treatment plan and follow-up outpatient treatment shall be provided by a mental health clinician.

(c) When a suicide attempt is discovered in progress, medical assistance shall be summoned immediately to provide emergency medical care. Security and safety procedures shall be followed, including the use of required equipment and procedures to deal with bodily fluids. A cut-down kit shall be immediately accessible on each unit and shall be used by staff in case of an attempted suicide by hanging. All subsequent activities and procedures shall comply with local institutional emergency plans, as developed in compliance with Section 3301.

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

HISTORY:

1. New section filed 6-22-99 as an emergency; operative 6-22-99 (Register 99, No. 26). A Certificate of Compliance must be transmitted to OAL by 11-29-99 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day. For prior history, see Register 95, No. 30.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 3).
3. New section filed 1-18-2000 as an emergency; operative 1-18-2000 (Register 2000, No. 3). A Certificate of Compliance must be transmitted to OAL by 6-26-2000 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1-18-2000 order, including amendment of subsections (b)(1) and (b)(3), transmitted to OAL 3-3-2000 and filed 4-10-2000 (Register 2000, No. 15).

3366. Mental Health Advisory Board.

Repealed.

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

HISTORY:

1. Repealer filed 1-28-99; operative 2-27-99 (Register 99, No. 5).

3367. Psychosurgery.

Psychosurgery, including lobotomy, stereotactic surgery, chemical or other destruction of brain tissue, or implantation of electrodes into brain tissue, is not and will not be performed on persons committed to or in the custody of the Department of Corrections.

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

3368. Aversive Therapy.

The use of any drug, electronic stimulation of the brain, or infliction of physical pain when used as an aversive or reinforcing stimulus in a program of aversive, classical or operant conditioning is not and will not be performed on persons committed to or in the custody of the Director of Corrections. Nothing in this section prohibits the administration of drugs intended to cause negative physical reactions to the ingestion of alcohol or drugs unless part of a program of aversive conditioning.

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

3369. Shock Therapy.

(a) Shock therapy is the only form of organic therapy, as defined by law, which may be used in the treatment of persons committed to the custody of the Director of Corrections. No inmate who is competent and capable of giving informed consent will be administered any form of shock therapy without having given his or her consent. Prior authorization of a superior court is also required before shock therapy may be administered for any treatment purpose other than as an emergency lifesaving measure.

(1) Shock therapy as a lifesaving emergency medical measure may be administered to an inmate who is competent and capable of giving informed consent and who has given consent, or an inmate who is incompetent or incapable of giving informed consent, without prior court authorization. However, all pertinent clinical data relating to the nature of the emergency and the treatment given will be presented to the court for review within 10 days of the first instance of emergency shock treatment.

(2) When an inmate is competent and capable of giving informed consent and has done so, and the court has authorized such treatment, shock therapy may be administered in a non-emergency course of treatment. No form of shock therapy may exceed three months of continuous treatment nor more than three months in any 12-month period.

(b) Informed Consent. The term, ''Informed Consent,'' means that a person must knowingly and intelligently, without duress or coercion, and clearly and explicitly consent to the proposed shock therapy. The inmate's consent must be given in writing and in the presence of the attending physician. It must be preserved and be available to the inmate, the inmate's attorney, guardian, or conservator.

(c) Determining Need. If the attending physician determines that shock therapy is required for the health and safety of the inmate, permission may be requested of the warden or superintendent to administer the therapy.

(1) The warden or superintendent will appoint a committee of physicians, two of whom are board certified or eligible for board certification in psychiatry or neurosurgery, to review the inmate's treatment record and the determination of the attending physician. At least one of the attending physicians must not be a full-time employee of the department.

(2) Before shock treatment may be administered, this committee must unanimously agree with the attending physician's determination that it is required and, if it is to be performed under the provisions of subsection (b), that the inmate has the ability to give informed consent and has in fact given informed consent.

(d) Withdrawal of Consent. Any inmate who has given informed consent may withdraw it at any time. The shock therapy must cease immediately.

(e) Court Petition.

(1) An inmate, or inmate's attorney, guardian or conservator may file a petition with the superior court of the county in which the inmate is confined for an order to prohibit the administration of shock therapy upon the inmate. This petition must be served by the county clerk upon the warden or superintendent on the same day it is filed and constitutes a refusal of consent or withdrawal of any prior consent.

(2) The warden or superintendent has 10 days to file a response to the petition. The superior court may grant a continuance of 10 additional days. The response must be served upon the inmate, and upon the inmate's attorney, guardian or conservator on the same day it is filed with the clerk of the superior court.

(f) Correspondence Regarding Shock Therapy. The inmate is entitled to communicate in writing with his or her attorney, and by writing or visits with his or her parents, guardian or conservator

regarding any proposed administration of shock therapy or organic therapy. Any mail regarding shock therapy will not be prevented from leaving the institution.

(g) Incapable of Informed Consent.

(1) If the inmate is incapable of giving informed consent to a program of shock therapy, and the attending physician believes that such treatment is required for the health and safety of the inmate, the attending physician may request the permission of the warden or superintendent. If the warden or superintendent agrees with the request and the committee, appointed pursuant to subsection (c)(1), also unanimously agrees that such therapy is required, the warden or superintendent will forward the request to the Chief, Medical Services for review and recommendation to the director. If the director concurs in the course of treatment, the warden or superintendent will petition the superior court for permission to conduct the hearing. No treatment will be conducted until after a hearing at which the inmate is represented by counsel and after a court order authorizing the treatment is issued.

(2) In an extraordinary case, the attending physician may determine that shock treatment is required for a longer period of time than three months, or more frequently than three months in the period of one year. The same procedures as in paragraph (1) of this subsection will be followed before any further shock therapy will be administered.

(h) Inmate Rights. If the attending physician determines that an inmate should be administered shock therapy, the inmate will be informed of his or her rights under this article. A copy of Penal Code Sections 2670 through 2680 will be made and will be given to the inmate at that time.

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

3369.1. Inmate/Parolee Placements in Department of Mental Health Hospitals.

(a) Inmates considered for placement in a Department of Mental Health hospital pursuant to Penal Code section 2684 shall be informed of their rights to a hearing on the placement and to waive such a hearing. Except as provided in (b) below, inmates who do not waive their right to the hearing shall be provided the following:

(1) A written notice of the placement hearing at least 72 hours prior to the hearing.

(2) An independent and qualified staff member to assist the inmate with their preparation for the hearing. Any costs or expenses incurred related to independent assistance obtained by the inmate on their own shall be the sole responsibility of the inmate.

(3) An opportunity to present documentary evidence and the oral or written testimony of witnesses, and to refute evidence and cross-examine witnesses unless the hearing officer indicates a good cause for prohibiting such evidence or witnesses.

(4) A hearing officer who shall be the institution head or a designee, which shall be a correctional administrator, physician, psychiatrist, or psychologist who is not involved with treating the inmate.

(5) A copy of the written decision within 72 hours after the hearing, which shall include the reason for the decision and the evidence, relied upon in making the decision.

(b) Inmates and parolees who require emergency psychiatric hospitalization shall be entitled to a certification review hearing pursuant to Welfare and Institutions Code section 5256 at the Department of Mental Health hospital in lieu of the above hearing and waiver requirements.

(c) Inmates and parolees housed in Department of Mental Health hospitals remain under the jurisdiction of the department and shall not be permitted to leave the hospital grounds without the specific authorization of the director.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5150 and 5250 through 5256, Welfare and Institutions Code; Sections 2684, 2974 and 5054, Penal Code; and *Vitek* v. *Jones* (1980) 445 U.S. 480, 100 S.Ct. 1254.

HISTORY:

1. New section filed 7-22-93; operative 8-23-93 (Register 93, No. 30).

Article 9.1. Research of Inmates/Parolees

3369.5. Research.

(a) No research shall be conducted on inmates/parolees without approval of the research advisory committee established to oversee research activities within the department. Members of the research advisory committee shall be named by the Director, and may include departmental staff and nondepartmental persons who are community academic representatives engaged in criminal justice research.

(b) No research project shall be considered without submission of a research proposal that shall contain the following:

(1) A statement of the objectives of the study.

(2) The specific values of the project.

(3) A description of the research methods to be used.

(4) A description of the measuring devices to be used, or if they are to be developed as part of the project, a statement of their intended use and reason.

(5) The name of the facility or office where the data will be collected.

(6) The names and titles of personnel involved and their responsibilities in the project.

(7) An estimate of departmental staff time needed for the project.

(8) Starting and ending dates of the research.

(9) Any additional costs to the state.

(10) An estimate of the inmate/parolee subjects' time needed for the project and a plan for the compensation of the inmates/parolees.

(11) The source of funding.

(12) A copy of the informed consent form to be used in the project, which meets the requirements of Penal Code section 3521.

(13) A current resume for each professional staff member of the project.

(14) The full name, date of birth, and social security number of all project staff members who will enter an institution or other departmental facility to carry out the project.

(15) A certification of privacy signed by the project's principal investigator which outlines the procedure for protecting exempt personal information and certifies that the protective procedures shall be followed.

(16) If student research is involved, a letter from the student's faculty advisor stating that the student will be working under their supervision and the project is approved by their college/university.

(17) If the proposal was previously reviewed by a committee of another agency or organization, a copy of the record of that committee's approval.

(c) A nondepartmental person, agency or organization applying to conduct research within the department shall submit to the committee for approval a signed agreement to adhere to all departmental requirements.

(d) Any person, agency or organization conducting research shall, as requested by the department's chief of research or designee, submit progress reports on their projects.

NOTE: Authority cited: Sections 3509.5, 3517, and 5058, Penal Code. Reference: Sections 3500 through 3524, and 5054, Penal Code.

HISTORY:
1. Change without regulatory effect adding new article 9.1 (section 3369.5) and renumbering former section 3439 to new section 3369.5 filed 8-1-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 31).
2. Amendment of subsection (a), including incorporation of portion of former subsection (a)(5) and repealer of subsections (a)(1)–(5) filed 7-3-2001; operative 8-2-2001 (Register 2001, No. 27).

Article 9.5. Case Records

3370. Case Records File and Unit Health Records Material—Access and Release.

(a) Unit health records means a patient's health record that includes all records of care and treatment rendered to an inmate-patient.

(b) Except by means of a valid authorization, subpoena, or court order, no inmate or parolee shall have access to another's case records file, unit health records, or component thereof.

(c) Inmates or parolees may review their own case records file and unit health records, subject to applicable federal and state law. This review shall be conducted in the presence of staff, and may necessitate the use of a computer.

(d) No inmate or parolee shall access information designated confidential pursuant to section 3321 which is in or from their own case records file.

(e) No case records file, unit health records, or component thereof shall be released to any agency or person outside the department, except for private attorneys hired to represent the department, the office of the attorney general, the Board of Prison Terms, the Inspector General, and as provided by applicable federal and state law. Any outside person or entity that receives case records files or unit health records is subject to all legal and departmental standards for the integrity and confidentiality of those documents.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2081.5, 5054 and 6126.5, Penal Code; Sections 56.10, 1798.24 and 1798.40, Civil Code; and Code of Federal Regulations, Title 45, Sections 164.512 and 164.524.

HISTORY:
1. New section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-15-92 and filed 5-27-92 (Register 92, No. 24).
3. New subsection (b) and subsection relettering filed 3-24-99; operative 4-23-99 (Register 99, No. 13).
4. Amendment of section heading, section and Note filed 1-19-2006; operative 2-18-2006 (Register 2006, No. 3).

3370.5. Detainers.

(a) When a detainer is received by the department, the inmate shall be provided a copy of the detainer and written notification concerning any options available to the inmate.

(b) An inmate may request resolution of a detainer case by completing the indicated form below and forwarding it to the case records office where the necessary documents shall be prepared for the inmate's signature and mailing.

(1) CDC Form 643 (Rev. 4/88), Inmate Notice and Demand for Trial to District Attorney, shall be completed to request disposition of untried charges in California.

(2) CDC Form 616 (Rev. 4/91), Request for Disposition of Probation (PC 1203.2a), shall be completed to request disposition of probation.

(c) If an inmate is not brought to trial within 90 days after the district attorney acknowledged receipt of CDC Form 643, case records staff shall complete and file with the court having jurisdiction of the matter the motion and order to request dismissal of the matter.

(d) When a district attorney requests custody of an inmate pursuant to PC section 1389 the inmate shall be provided a copy of the explanation of rights under Article IV of the Interstate Agreement on Detainers.

(e) When a request is received for an inmate to appear for sentencing on an out-of-state or federal conviction, the inmate shall be provided notification of their rights with CDC Form 1673 (Rev. 12/86), Agreement on Detainer—Right to Request Sentencing. An inmate's demand for sentencing in absentia shall be executed on CDC Form 1674 (Rev. 12/86), Agreement on Detainer—Notice of Place of Imprisonment.

(f) Each out-of-state agency which has filed a detainer against an inmate shall be notified no later than 60 days before the inmate's pending parole or discharge. Each in-state agency which has filed a detainer against an inmate shall be notified no later than 10 days before the inmate's pending parole or discharge.

(g) The inmate shall be released to the agency, which first placed a detainer, unless a later detainer is based upon an adjudicated prison sentence in which case the inmate shall be offered to the agency holding the prison sentence detainer. In either case, the other agencies shall be notified which agency assumed custody of the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.2a, 1381, 1389 and 5054, Penal Code. *In re Stoliker* (1957) 49 Cal.2nd 75; and *Tinghitella* v. *California* (9th Cir. 1983) 718 F.2d 308.

HISTORY:
1. New section filed 12-19-91 as an emergency; operative 12-19-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-19-91 order including amendment of subsection (f) transmitted to OAL 4-20-92 and filed 5-28-92 (Register 92, No. 24).

3371.1. Computation of Time and Preprison Credit.

(a) The method of computing time and applying credit to an inmate's term is governed by the laws applicable on the date the inmate's crime is committed.

(b) Credit towards an inmate's term shall be administratively applied if the credits are not reflected on legal documents for:

(1) Time spent under an indeterminate sentence as a mentally disordered offender pursuant to Penal Code (PC) section 1600.5.

(2) A commitment received on or after September 15, 1965 where the inmate spent time for diagnostic observation pursuant to PC section 1203.03.

(3) Time spent for a Welfare and Institutions Code (W&IC) section 3200 commitment.

(4) Time spent in the California Youth Authority on the same offense for which they were committed to the department pursuant to W&IC section 1782.

(c) If upon application of preprison credit the inmate is overdue for release, they shall be released within five working days.

(d) Only the following credit issues shall be referred by the department to the sentencing court:

(1) Any case where credit was granted for time served for an in-prison offense, a crime committed while the inmate was on escape status, or where an inmate's consecutive case was sentenced after their received date and included credit for that time served.

(2) When an inmate's case was resentenced and the court credited the inmate with time being served in the department.

(3) When an inmate's probation is revoked and the inmate is granted more than 60 days custody credit, which is also being credited by the department.

(4) Cases where legal documents reflect any conflict in credit.

(5) Cases where the court granted Penal Code section 4019 credit at the rate of day-for-day.

(e) Any preprison credit towards an indeterminate sentence shall be applied within one week after the inmate's parole date or term is established or fixed by the Board of Prison Terms.

(f) No preprison credit shall be applied towards time assessed for prior indeterminate sentence terms.

(g) The inmate's received date is counted as a full day regardless of the actual time of day received; for each day thereafter, they shall serve the full 24-hour period to receive credit.

(h) An inmate who has been convicted of a felony, and sentenced under Penal Code section 667(b) through (i), or Penal Code Section 1170.12, with one or more prior felony convictions, as defined in Penal Code section 667.5(c) and/or 1192.7(c), shall not be awarded behavior and/or work credits in an amount that exceeds one-fifth of the total term of imprisonment imposed. The limitation on the inmate's credit accrual shall commence on the received date, as defined in section 3000 even if the inmate's sentence has been modified as the result of a striken prior felony conviction under Penal Code section 1385. There will be a maximum credit accrual rate of 20% so long as the trial court continues to use at least one prior felony conviction, as defined in PC section 667.5(c) and/or 1192.7(c), for the purposes of determining the term of imprisonment upon resentencing.

NOTE: Authority cited: Sections 5058, and 2930–2935, et seq., Penal Code. Reference: Sections 667, 667.5, 1168, 1170, 1170.12, 1192.7, 1203, 2900.1, 2900.5 and 5054, Penal Code; and Section 1782, Welfare and Institutions Code; and *People* v. *Caceres* (1997) 52 Cal.App. 4th 106, 60 Cal. Rptr. 2d 415, *People* v. *Buchalter* (2001) 26 Cal. 4th 994A, 108 Cal. Rptr. 2d 625, and *People* v. *Superior Court* (Romero) (1996) 13 Cal. 4th 497, 53 Cal. Rptr. 2d 789.

HISTORY:

1. New section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-20-91 order including amendment of subsection (d)(1) transmitted to OAL 4-20-92 and filed 6-2-92 (Register 92, No. 24).
3. New subsection (h) and amendment of Note filed 12-10-2002; operative 1-9-2002 (Register 2002, No. 50).

3371.2. Credits for Escapee or Parole Violator.

(a) An escapee or parole violator shall receive credit on their sentence for time in another jurisdiction's custody when they are held on ''our hold only'' and are available for return to the department's custody. No credit shall be applied for the time they are held on ''our hold only'' and are resisting extradition.

(b) An escapee or parole violator in local confinement is available except when serving a sentence in lieu of a fine or a sentence expressly ordered to run consecutively to their existing prison term.

(c) An escapee or parole violator in local confinement is available on the date our hold was placed or, if declared at-large and parole was suspended, the date of their arrest.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2900 and 5054, Penal Code.

HISTORY:

1. New section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-20-91 order transmitted to OAL 4-20-92 and filed 6-2-92 (Register 92, No. 24).

Article 10. Classification

3375. Classification Process.

(a) The classification process shall be uniformly applied, commencing upon reception of a person committed to the custody of the director and shall continue throughout the time the individual remains under the director's jurisdiction. Each inmate shall be individually classified in accordance with this article.

(b) The classification process shall take into consideration the inmate's needs, interests and desires, his/her behavior and placement score in keeping with the department and institution's/facility's program and security missions and public safety.

(c) Each determination affecting an inmate's placement within a institution/facility, transfer between facilities, program participation, privilege groups, or custody designation shall be made by a classification committee composed of staff knowledgeable in the classification process.

(d) The classification of felon inmates shall include the classification score system as established. A lower placement score indicates lesser security control needs and a higher placement score indicates greater security control needs.

(e) When possible, the inmate shall be given sufficient advance written notice of any classification committee hearing to provide the inmate reasonable preparation time to discuss the matter to be considered. An inmate appearing before a classification committee shall be informed of the inmate's next classification committee hearing date when it is known or can be anticipated.

(f) The classification of inmates shall provide the following procedural safeguards:

(1) Inmates shall be given written notice at least 72 hours in advance of a hearing which could result in an adverse effect. Adverse effect is defined as:

(A) Involuntary transfer to a higher security level institution/facility, which is not consistent with the inmate's placement score.

(B) Increase in the inmate's custody designation.

(C) Involuntary placement in segregated housing.

(D) Involuntary removal from an assigned program.

(E) Placement in a reduced work group.

(F) Involuntary transfer to another institution/facility because of the inmate's misbehavior or receipt of new information that may affect staff, inmates, the public, or the safety and security of the institution/facility, whether or not his/her placement score is consistent with the receiving institution's/facility's security level.

(G) Transfer of an inmate to a more restrictive institution or program where the security level is higher.

(2) Except as provided in subsection 3375(f)(3), the inmate shall be present at all initial classification committee hearings and at any other classification committee hearing which could result in an adverse effect upon the inmate.

(3) An in absentia (without inmate's presence) classification hearings may be held only when:

(A) The inmate refuses to appear before the committee.

(B) The inmate is physically incapable of appearing before the committee, or is determined by a psychiatrist to be mentally incompetent and cannot understand the purpose of the hearing.

(C) The purpose of the hearing is to:

1. Improve the inmate's conditions of confinement by reducing or removing a previously imposed restriction.

2. Approve an action requested in writing by the inmate.

3. Determine the need for scheduling, or to schedule, a future classification committee action.

(4) If the inmate was not previously notified and during the classification committee hearing an unanticipated adverse effect emerges, the hearing shall be postponed for at least 72 hours and the inmate shall be referred to the inmate's counselor for assistance when the inmate is illiterate, or the issues are complex unless:

(A) The hearing cannot be postponed because of safety or security factors.

(B) The inmate waives the 72-hour postponement.

(5) The inmate shall be permitted to contest the preliminary score or placement score in the hearing.

(6) Each inmate appearing before a classification committee shall be:

(A) Introduced to the committee members.

(B) Informed of the purpose of the hearing.

(C) Encouraged to participate in the hearing discussion.

(D) Informed of the committee's decision.

(7) Classification committee decisions shall be based on evaluation of available information and mutual agreement of the committee members.

(g) Every decision of a classification committee shall be documented on a CDC Form 128-G, Classification Chrono.

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

(A) The reason or purpose for the committee hearing.

(B) The action taken.

(C) The specific reasons for the action including the information upon which the decision was based.

(D) The inmate's stated preferred action, the reasons for the preference, and his/her agreement or disagreement with the committee action.

(E) If applicable, the use of any reasonable accommodation to ensure effective communication.

(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.

(G) The reason(s) for the omission of any of the classification procedural safeguards identified in subsection 3375(f).

(H) If an in absentia hearing is held, reason(s) for the inmate being absent.

(I) The name, title, and signature of the committee's chairperson.

(J) The names and titles of staff who participated in the decision.

(K) The name, title, and signature of the committee's recorder.

(L) The date of the action.

(2) In addition to the preceding, documentation for transfer reviews shall also include the following:

(A) The inmate's requested transfer preference(s) and stated reason(s) for preferring that location.

(B) The institution to which the committee recommends transfer with an alternate recommendation, if different from those requested by the inmate, and the specific reasons for both recommendations.

(C) A statement of the inmate's work group upon transfer based on adverse on non-adverse transfer circumstances.

(3) When the inmate is treated under the mental health services delivery system (MHSDS) and is at the enhanced outpatient program (EOP) or the mental health crises bed (MHCB) level of care, regardless of the inmate's housing, a clinician is required as a committee member at all hearings. When the inmate is in segregated housing and treated under the MHSDS at any level of care a clinician is required as a committee member at all hearings. Documentation shall include, but not be limited to the following.

(A) The inmate's current medical/psychiatric status/level of care.

(B) MHSDS treatment needs.

(C) The inmate's ability to understand and participate in the classification hearing.

(4) In all hearings when the inmate is treated under the MHSDS and is housed in segregated housing, documentation shall include the requirements indicated in subsection 3375(g)(3) as well as the following:

(A) A clinical assessment of the inmate's likelihood of decompensation if retained in segregated housing.

(B) A summary of the clinical information provided by the clinician when an actively decompensating mentally ill inmate is recommended for transfer to a mental health program by the clinician and the decision of the committee is to retain the inmate in segregated housing.

(5) Documentation from each institution's initial classification reviews shall include the following case factors:

(A) Date of birth.

(B) Term Status (first, second, etc.)

(C) County(ies) of commitment.

(D) Commitment offense(s) (include parole revocation offense(s) resulting in good cause findings if a parole violator.)

(E) Length of sentence.

(F) When the inmate was received by the department for the current incarceration.

(G) County of last legal residence.

(H) Escape related conviction(s).

(I) Current or potential hold(s).

(J) Arson related arrest(s) or conviction(s).

(K) Sex-related arrest(s) or conviction(s) by date.

(L) The current placement score and security level.

(M) The reason(s) the inmate was transferred to the current location.

(N) Current eligibility status for special programs such as camp, minimum support facility, community correctional facility, community correctional reentry center, or restitution center. If not eligible, the reason for each shall be noted.

(O) Current assignments (including work group and privilege group).

(P) Enemy, gang, or disruptive group concerns.

(Q) The existence of, and committee review of, confidential information.

(R) Any medical/psychiatric/disability concerns, including tuberculosis tracking code and date of the most current documentation.

(h) An inmate shall be provided a copy of all nonconfidential staff documentation and reports placed in the inmate's central file unless otherwise requested in writing by the inmate.

(i) An inmate shall not remain at a institution/facility with a security level which is not consistent with the inmate's placement score unless approved by a classification staff representative (CSR) or a staff person designated to serve in that capacity.

(j) A CDC Form 839, (Rev. 12/02), CDC Classification Score Sheet, shall be prepared pursuant to section 3375.3 on each newly received felon.

(1) In completing the CDC Form 839, 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 be 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 CDC Form 839.

(3) An effort shall be made to obtain verifiable documentation of all items on the CDC Form 839. 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 CDC Form 839 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 CDC Form 840 (rev. 12/02), CDC 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 CDC Form 840 shall be completed:

(A) Twelve months after the date that the inmate physically arrived in the reception center and annually thereafter.

(B) Any six-month period when favorable points are granted or unfavorable points are assessed which would cause the inmate's placement score to fall outside of the facility security level.

(C) Each time a case is presented to a CSR for placement consideration.

(2) A CDC Form 841 (Rev. 12/02), CDC Readmission Score Sheet, shall be completed pursuant to section 3375.5 as part of the readmission process when a parolee is returned to prison.

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; *Stoneham* v. *Rushen* (1984) 156 Cal.App.3d 302; and *Castillo* v. *Alameida, et al.,* (N.D. Cal., No. C94-2847.

HISTORY:

1. Amendment filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88. For prior history, see Register 88, No. 8.
2. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
3. Amendment filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
4. Amendment of subsection (b) filed 9-19-88 as an emergency; operative 9-19-88 (Register 88, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1-17-89.
5. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
6. Certificate of Compliance as to 9-19-88 order transmitted to OAL 1-18-89 and filed 2-2-89 (Register 89, No. 8).
7. Change without regulatory effect amending section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
8. Editorial correction of typing errors in subsections (b) and (g) (Register 91, No. 11).
9. Editorial correction of printing errors (Register 92, No. 5).
10. New subsection (f)(1)(F) filed 1-16-92; operative 2-17-92 (Register 92, No. 13).
11. Amendment of subsection (c) filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
12. Amendment filed 10-17-97; operative 11-16-97 (Register 97, No. 42).
13. Amendment of section and Note filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 8-27-2002 order, including further amendment of section, transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).
15. Amendment of subsection (h) and Note filed 5-25-2006; operative 5-25-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

3375.1. Inmate Placement.

(a) Except as provided in section 3375.2, each inmate shall be assigned to a facility with a security level, which corresponds to the following placement score ranges:

(1) An inmate with a placement score of 0 through 18 shall be placed in a Level I facility.

(2) An inmate with a placement score of 19 through 27 shall be placed in a Level II facility.

(3) An inmate with a placement score of 28 through 51 shall be placed in a Level III facility.

(4) An inmate with a placement score of 52 and above shall be placed in a Level IV facility.

(b) An inmate approved for transfer to a subfacility of a complex may be received and processed through a facility with a security level higher than that which is consistent with the inmate's placement score. Such cases shall be transferred to the subfacility when bed space allows or, when appropriate, recommended for an administrative determinant, which prohibits movement to the lower security level facility.

(1) The case shall be presented to a CSR for evaluation within 30 days of receipt at the facility unless the inmate is on an approved waiting list maintained by the complex for placement of inmates at the approved subfacility.

(2) The transfer of an inmate for more than 30 days from one subfacility of a complex to another subfacility, which has a different security level, shall require a classification staff representative (CSR) endorsement. When the subfacility's security level is consistent with the inmate's placement score, the classification and parole representative may act as a CSR.

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. 3e 302.

HISTORY:

1. Renumbering and amendment of section 3375(h) to section 3375.1 filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. Renumbering and amendment of section 3375(h) to section 3375.1 filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. Renumbering and amendment of section 3375(h) to section 3375.1 filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations adopting sections 3375.1, 3375.2, 3375.3, 3375.4, amending sections 3375, 3376, 3377, 3377.1 and repealing section 3375.1, filed 10-22-90; operative 11-29-90 (Register 91, No. 4).
8. Editorial correction of printing error inadvertently omitting text in subsection (a) (Register 91, No. 11).
9. Editorial correction of printing errors in subsections (a) and (b)(2) and Note (Register 92, No. 5).
10. Amendment of section and Note filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 8-27-2002 order transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).

3375.2. Administrative Determinants.

(a) An inmate meeting one or more of the following administrative or irregular placement conditions, known as administrative determinants, may be housed in a facility with a security level which is not consistent with the inmate's placement score:

(1) An inmate requires an outpatient or higher degree of medical or psychiatric care at a facility specifically staffed for the type of treatment necessary.

(2) An inmate with a history of sex crimes designated in section 3377.1(b) shall be housed in accordance with their placement score and shall not be assigned outside the security perimeter.

(3) An inmate with a history of arson shall not be housed in a facility constructed primarily of wood.

(4) An inmate with a felony hold, warrant, detainer, or the equivalent thereof filed with the department who is likely to receive a significant period of consecutive incarceration or be deported, shall not be housed in a Level I facility without perimeter gun towers.

(5) An inmate requires confidential placement in a city or county confinement facility within the state.

(6) An inmate serving a sentence of life without possibility of parole shall not be housed in a facility with a security level lower than Level IV, except when authorized by the Departmental Review Board.

(7) An inmate serving any life term shall not be housed in a Level I or II facility if any of the following case factors are present:

(A) The commitment offense involved multiple murders, unusual violence or execution-type murders or received high notoriety.

(B) A history of multiple walkaways, an escape from a secure perimeter or an escape with force or threat of force.

(8) An inmate serving a life term without an established parole date of three years or less, shall not be housed in a Level I facility nor assigned to a program outside a security perimeter.

(9) An inmate serving a life term whose placement score is not consistent with a Level I or II security level shall not be housed in a Level I or Level II facility except when approved by the Departmental Review Board.

(10) An inmate whose death sentence is commuted or modified shall be transferred to a reception center for processing after which the Departmental Review Board shall determine the inmate's initial facility placement.

(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, prior conviction, or a sustained juvenile adjudication, as defined in subdivision (b)(25), 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 or on a CDC Form 812-C (Rev. 8/01), Notice of Critical Information -Confidential Enemies 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) GAN. Documentation establishes that the inmate's gang membership or association requires special attention or placement consideration.

(12) INA. Documentation establishes that the inmate's inactive gang status requires special attention or placement consideration.

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

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

(16) 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.

(17) 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.

(18) PRE. The short time remaining to serve limits or otherwise influences placement or program options for the inmate. This factor shall also be used for sending an inmate to a hub facility for their release to a community based correctional facility.

(19) 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.

(20) PUB. High notoriety of an inmate has caused public interest in the case and requires exceptional placement.

(21) 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.

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

(23) SOR. Inmate's bisexual or homosexual orientation may require special placement.

(24) 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.

(25) 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 Prison Terms or Parole Hearings Division good cause finding, or;

2. California Youth Authority/Youth Offender Parole Board sustained allegation.

(C) A probation 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,

(26) VOC. Inmate is involved in a vocational program which is not available at a facility with a security level which is consistent with the inmate's placement score.

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

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 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.

HISTORY:

1. Change without regulatory effect adding section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
2. Editorial correction of printing error inadvertently omitting text in subsection (a)(6) (Register 91, No. 11).
3. Editorial correction of printing errors (Register 92, No. 5).
4. Repealer of subsection (a)(7) and amendment of subsection (a)(8) filed 1-16-92; operative 2-17-92 (Register 92, No. 13).
5. Amendment of subsection (b)(8) filed 6-17-94; operative 7-18-94 (Register 94, No. 24).
6. Repealer of subsections (b)(13), (b)(16) and (b)(22), subsection renumbering, amendment of newly designated subsection (b)(21), and new subsections (b)(22) and (b)(24) filed 9-5-95 as an emergency; operative 9-5-95 (Register 95, No. 36). A Certificate of Compliance must be transmitted to OAL by 2-12-96 (pursuant to Penal Code section 5058(e)) or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 9-5-95 order, including amendment of subsection (b)(24), transmitted to OAL 1-8-96 and filed 2-15-96 (Register 96, No. 7).
8. New subsection (b)(12), subsection renumbering, and amendment of Note filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).
10. Change without regulatory effect amending subsection (b)(8) filed 10-23-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 43).
11. Amendment of subsections (b)(2) and (b)(25) and new subsections (b)(25)(A)–(C) filed 3-7-2002; operative 4-6-2002 (Register 2002, No. 10).
12. Amendment of section and Note filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 8-27-2002 order transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).
14. Amendment of subsection (a)(2) filed 11-3-2006; operative 12-3-2006 (Register 2006, No. 44).

3375.3. CDC Classification Score Sheet, CDC Form 839, Calculation.

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) 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 CDC Form 839 (Rev. 12/02), CDC 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 CDC 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.

(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.

(B) Enter the corresponding point value in the box to the right.

(C) This is always a single digit value.

(3) Current term of incarceration (Boxes 33–34):

(A) Length of term. Presentence and postsentence credits shall not be subtracted from length of term. A sentence of death or life without possibility of parole shall result in a maximum score of 50. For sentences of 25 years-to-life for murder, the base term is 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 determinant terms for other counts or offenses to be served consecutive to a life term shall be 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.

(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.

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

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.

(B) Method of verification code (Box 38). Apply the code that is most indicative of gang 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 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.

2. Code B—Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been identified by gang investigators as being used by and distinctive to specific gangs. Staff shall describe the tattoo or symbol and articulate why it is believed that the tattoo is used by and distinctive of gang association or membership. 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 gang activity such as the membership or enemy lists, constitutions, organization structures, codes, training material, etc., of specific gangs. Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of association or membership with the 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.

4. Code D—Photographs. Individual or group photographs with gang connotations such as those which include insignia, symbols, or validated gang affiliates. The date of the photograph shall be reasonably ascertained prior to any photo being relied upon for inclusion as a source item. No photograph shall be considered for validation purposes that is estimated to be older than six (6) years. Any photograph being utilized as a source item that depicts gang members 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.

5. Code E—Staff information. Documentation of staff's visual or audible observations which reasonably indicate gang activity. Staff shall articulate the basis for determining the content or conduct at issue is gang related. 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.

6. Code F—Other agencies. Information evidencing gang activity provided by other agencies. Verbal 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 gang affiliates. Information including addresses, names, identities and reasons why such information is indicative of association with a prison gang or disruptive group. 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. The circumstances of an offense evidence gang activity such as an offense being between rival gangs, the victim is a verified gang affiliate, or the inmate's crime partner is a verified gang affiliate. Staff shall articulate why an offense is gang related. Multiple sources of information relative to a single incident or offense will be considered one source of validation. 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.

9. Code I—Legal documents. Probation officer's report or court transcripts evidencing gang 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.

10. Code J—Communications. Documentation of telephone conversations, conversations between inmates, mail, greeting cards, notes, or other communication, including coded messages evidencing gang activity. Staff shall articulate why, based on either the explicit or coded content, the communication is reliable evidence of association or membership with the 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.

(5) Mental Illness (Boxes 39–43). If a CDC 128-C, (Rev. 4/92) Mental Health Placement Chrono, has been prepared in the reception center that indicates that the inmate needs to be included in the Mental Health Services Delivery System (MHSDS), except for a case designated as Medical Necessity, enter four (4) points in Box 43 to the right.

(A) Do not assess points for a case that has been designated Medical Necessity although the inmate is included in the MHSDS.

(B) Level of care (Boxes 39–42). Enter an "X" in the box that indicates the level of care (LOC) that has been designated by the reception center health care staff per the inmate's CDC 128-C.

(6) 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.

(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.

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 CDC placements for diagnostic evaluation pursuant Penal Code Section 1203.03 "Z" cases, followed by a grant of probation.

(7) Prior Incarceration(s) (Boxes 45–46)

(A) California Youth Authority, state or federal level juvenile, which includes state or federal facilities for juvenile offenders (Box 45).

(B) CDC, 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 CDC, 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.

(B) If there is no record of unfavorable prior behavior, enter four (4) favorable points in Box 50.

(4) Unfavorable prior behavior (Boxes 51–52).

(A) For each serious disciplinary in the last 12 months of incarceration(s), four points shall be entered in Boxes 51–52.

(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(c).

(D) For each battery or attempted battery on an inmate, four points shall be entered in Boxes 55–56. 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)(7), into a jail or correctional facility for distribution and sales, four points shall be entered in Boxes 57–58. 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 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 for each possession of a deadly weapon incident, which occurred within five years of the inmate's reception to the department on current term.

(G) For each instance of 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 (typically, this involves a leadership role in a facility riot, racial disturbance or work strike), four points shall be entered in Boxes 61–62.

(H) For each battery that caused serious injury, 16 points shall be entered in Boxes 63–64. Inmates who conspired in or ordered the battery shall also receive these points.

1. Serious 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 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) Computations, which result in a minus value, shall be entered as zero.

(d) Mandatory Minimum Score, Score Factors, and Score Factor Codes (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 an alpha 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.

(B) If one or more mandatory minimum score factors are present, determine 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.

(e) Placement Score (Boxes 71–73).

(1) If there are no case factors that require a mandatory minimum score, enter the preliminary score as the placement score.

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

(f) 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 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).

HISTORY:

1. Change without regulatory effect adding section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
2. Editorial correction of printing errors (Register 91, No. 11).
3. Editorial correction of printing errors (Register 92, No. 5).
4. Change without regulatory effect amending subsection (b)(2)(H)3. and subsection renumbering filed 12-15-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 50).
5. Amendment of section and Note and new form CDC 839 filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-27-2002 order, including further amendment of section and repealer and new form CDC 839, transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).
7. Amendment of subsections (a)(4)(B)1.–10. and Note filed 5-25-2006; operative 5-25-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

STATE OF CALIFORNIA
CDC 839 (Rev. 12/02)

DEPARTMENT OF CORRECTIONS
Original - Central File
Canary - OIS
Green - Inmate

CDC CLASSIFICATION SCORE SHEET

4. COUNTY OF LAST LEGAL RESIDENCE [ ] 18

5. FORM IDENTIFICATION (ENTER X in a, b or c)
a) NEW [ ] 21 b) CORRECTION [ ] 22 DATE CORRECTED [ ] MO – [ ] DAY – [ ] YR c) DELETE [ ] 29

B. BACKGROUND FACTORS

AGE AT FIRST ARREST MATRIX

POINTS		POINTS	
0 TO 17 =	12	30 TO 35 =	4
18 TO 21 =	10	36 + =	0
22 TO 29 =	8		

FIRST ARREST DATE OR AGE _____

DATE OF BIRTH _____

1. AGE AT FIRST ARREST _____ POINTS (See Matrix) = [ ] 30

AGE AT RECEPTION MATRIX

POINTS		POINTS	
16 TO 20 =	8	27 TO 35 =	4
21 TO 26 =	6	36 + =	0

2. AGE AT RECEPTION _____ POINTS (See Matrix) = [ ] 32

3. TERM IN YEARS ( ) x 2 (MAX 50) = [ ] 33

4. STREET GANG/DISRUPTIVE GROUP + 6 = [ ] 35
a) Type Code [ ] 36 b) Verification Code [ ] 38

5. MENTAL ILLNESS
Level of Care Code (Enter X) CCCMS [ ] 39 EOP [ ] 40 MHCB [ ] 41 DMH [ ] 42 + 4 = [ ] 43

6. PRIOR JAIL OR COUNTY JUVENILE SENTENCE OF 31+ DAYS (MAX 1) + 1 = [ ] 44

7. PRIOR INCARCERATION(S)
a) CYA, Juvenile State/Federal Level (MAX 1) + 1 = [ ] 45
b) CDC, CRC, Adult State/Federal Level (MAX 1) + 1 = [ ] 46

8. TOTAL BACKGROUND FACTORS SCORE = + _____

C. CORRECTION TO CDC 839 SCORE SHEET (Prior to Rev. 07/02)

1. Use this section to correct a CDC 839 score sheet with a form revision date prior to 07/02. TOTAL CORRECTION = (+ or –) [ ] 4

D. PRIOR INCARCERATION BEHAVIOR

1. LAST 12 MONTHS OF INCARCERATION
a) FAVORABLE - (No Serious Disciplinary) (MINUS) – 4 = [ ] 50
b) UNFAVORABLE (Serious Disciplinaries) Dates: NUMBER OF _____ x 4 = [ ] 51

2. SERIOUS DISCIPLINARY HISTORY
a) Battery or Attempted Battery on a Non-Prisoner Dates: _____ x 8 = [ ] 53
b) Battery or Attempted Battery on an Inmate Dates: _____ x 4 = [ ] 55
c) Distribution of Drugs Dates: _____ x 4 = [ ] 57
d) Possession of a Deadly Weapon (Double-weight if within last 5 years) Dates: _____ x 4 = [ ] 59
e) Inciting a Disturbance Dates: _____ x 4 = [ ] 61
f) Battery Causing Serious Injury Dates: _____ x 16= [ ] 63

3. TOTAL PRIOR INCARCERATION BEHAVIOR SCORE (Combine D.1. and sum of D.2.) = + / - _____

E. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

CODE		SCORE
[A]	Condemned	52
[B]	Life Without Possibility of Parole	52
[C]	CCR 3375.2(a)(7) Life Inmate	28
[D]	History of Escape	19
[E]	Warrants "R" Suffix	19
[F]	Violence Exclusion	19
[G]	Public Interest Case	19
[H]	Other Life Sentence	19

1. PRELIMINARY SCORE (Not less than 0) (Combine Item B.8., Total Backgound Factors Score, and Item D.3., Total Prior Incarceration Behavior Score) [ ] 65

2. MANDATORY MINIMUM SCORE FACTOR CODE (Assess Highest Factor) [ ] 68

3. MANDATORY MINIMUM SCORE [ ] 69

ENTER PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE, WHICHEVER IS GREATER

4. PLACEMENT SCORE [ ] 71

F. SPECIAL CASE FACTORS

1. HOLDS, WANTS and DETAINERS (Enter A or P)
Felony [ ] 74 USINS [ ] 75

2. RESTRICTED CUSTODY SUFFIX (Enter R) [ ] 76

3. CURRENT INSTITUTION AND FACILITY [ ] – [ ] 77

4. ELIGIBLE FOR RESTITUTION CENTER (Enter Y or N) [ ] 84

5. LEVEL IV DESIGN
a) 180 Status (Y/N) _____
b) Reason Code _____

6. US ARMED FORCES (Enter Y or N) [ ] 85

7. CASEWORKER'S NAME [ ] FI [ ] 86

G. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME [ ] 95

2. DATE OF ACTION [ ] MO – [ ] DAY – [ ] YR 103

3. LEVEL IV DESIGN
a) 180 Status (Enter Y to Apply) [ ] 109 b) Reason Code [ ] 110

4. MINIMUM CUSTODY
a) Eligibility (Enter E, L or P) [ ] 112 b) Reason Code [ ] 113

5. CCRC ELIGIBILITY (ENTER REN or REX) [ ] 116

6. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE [ ] 119

7. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S)
a) Primary (affects placement) [ ] 122 b) [ ] 125 c) [ ] 128 d) [ ] 131

8. ADMINISTRATIVE DETERMINANT CODE(S)
a) [ ] 134 b) [ ] 137 c) [ ] 140 d) [ ] 143 e) [ ] 146

9. MENTAL HEALTH LEVEL OF CARE (Enter C or E)
CCCMS EOP [ ] 149

10. INSTITUTION APPROVED [ ] – [ ] 150

11. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT [ ] 157

A. IDENTIFYING INFORMATION

1. CDC NUMBER [ ] 1

2. INMATE'S LAST NAME [ ] 7

3. DATE RECEIVED CDC [ ] MO – [ ] DAY – [ ] YR 12

SAMPLE

3375.4. CDC Reclassification Score Sheet, CDC Form 840, Calculation.

The factors and their related numerical weights used to recalculate an inmate's preliminary score or new preliminary score 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.

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

(3) For each six-month period with an average or above performance in work, school or vocational program, two points shall be entered in Boxes 50–51.

(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 average performance for inmates who are not assigned to a program.

(b) Unfavorable behavior since last review (Boxes 52–69):

(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; apply six points for a Division B, Division C, or Division D offense; apply four points for a Division E or Division F offense. 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.

(A) Battery means any offense as described in section 3005(c) 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.

(A) Refers to situations where one or more inmates are clearly the victim. Usually results in some injury involving a group attack or some type of weapon.

(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)(7), in an institution/facility or contract health facility, for distribution and sales, four points shall be entered in Boxes 62–63. 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. 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. 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 injury, 16 points shall be entered in Boxes 68–69. Inmates who conspired in or ordered such battery shall receive the same points.

(A) Serious 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) Correction to CDC 840 Score Sheet (Prior to Rev. 07/02) (Boxes 70–72).

(1) Use this section to correct a CDC 840 Score Sheet 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) 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.

(2) When the most current score appears on the CDC Classification Score Sheet, CDC Form 839, (Rev. 12/02), 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. 12/02), 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. 12/02), 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.

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

(g) Change in 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 Prison Terms 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).

(C) Determine the difference between the new term points and the old term points. 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 CDC Form 841 (Rev. 12/02) 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 change in term points 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 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) Computations that result in zero or a minus value shall be entered as zero.

(i) Mandatory Minimum Score, Score Factors, and Score Factor Codes (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 an alpha 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.

(B) If one or more mandatory minimum score factors are present, 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.

(j) Placement Score (Boxes 88–90).

(1) If there is no case factor requiring a mandatory minimum score, enter the new preliminary score as the placement score.

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

(4) The placement score is one of the factors used to determine the security level to which the inmate is assigned.

(k) 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.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5608, Penal Code; *Wright* v. *Enomoto* (1976) 462 F.Supp. 397; and *Stoneham* v. *Rushen* (1984) 156 Cal.App.3d 302.

HISTORY:

1. Change without regulatory effect adding section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
2. Editorial correction of printing errors (Register 91, No. 11).
3. Amendment of section and Note and new form CDC 840 filed 8-27-2002 as an emergency, operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-27-2002 order, including further amendment of section and repealer and new form CDC 840, transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).

STATE OF CALIFORNIA
CDC 840 (Rev. 12/02)

DEPARTMENT OF CORRECTIONS
Original - Central File
Canary - OIS
Green - Inmate

CDC RECLASSIFICATION SCORE SHEET

4. DATE OF LAST SCORE SHEET MO DAY YR 18

5. FORM IDENTIFICATION (ENTER X In a, b or c) a) NEW 24 b) CORRECTION 25 DATE CORRECTED MO DAY YR 26 c) DELETE 32

B. ANNUAL/ 6 MONTH REVIEW PERIOD DATES

1. REVIEW PERIOD BEGINNING DATE MO DAY YR 33
2. REVIEW PERIOD ENDING DATE MO DAY YR 40
3. (Enter X) Annual 39
4. Number of Full Review Periods _____

C. FAVORABLE BEHAVIOR SINCE LAST REVIEW

1. Continuous Minimum Custody _____ x 4 = 46
2. No Serious Disciplinary _____ x 2 = 48
3. Average or Above Performance in Work, School or Vocational Program _____ x 2 = 50
4. TOTAL FAVORABLE POINTS = - _____

D. UNFAVORABLE BEHAVIOR SINCE LAST REVIEW

SERIOUS DISCIPLINARIES — Number of

1. Div. A-1/A-2 Dates: _____ x 8 = 52
   Div. B, C & D Dates: _____ x 6 = 54
   Div. E & F Dates: _____ x 4 = 56
2. Battery or Attempted Battery on a Non-Prisoner Dates: _____ x 8 = 58
3. Battery or Attempted Battery on an Inmate Dates: _____ x 4 = 60
4. Distribution of Drugs Dates: _____ x 4 = 62
5. Possession of a Deadly Weapon Dates: _____ x 16 = 64
6. Inciting a Disturbance Dates: _____ x 4 = 66
7. Battery Causing Serious Injury Dates: _____ x 16 = 68
8. TOTAL UNFAVORABLE POINTS = + _____

E. CORRECTION TO CDC 840 SCORE SHEET (Prior to Rev. 07/02)

1. Use this section to correct a CDC 840 score sheet with a form revision date prior to 07/02. TOTAL CORRECTION = (+ or -) 70

F. COMPUTATION OF SCORE

1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 840 or 841) = 73
2. Net Change in Score (D. 8 minus C. 4) = (+ or -) 76
3. PRELIMINARY SCORE SUBTOTAL (Not less than 0) = _____
4. Change in Term Points (T/P) (x 2) - Old T/P _____ + New T/P _____ = (+ or -) 79
5. NEW PRELIMINARY SCORE (Not less than 0) = 82

G. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

CODE	SCORE	CODE	SCORE
[A] Condemned	52	[E] Warrants "R" Suffix	19
[B] Life Without Possibility of Parole	52	[F] Violence Exclusion	19
[C] CCR 3375.2(a)(7) Life Inmate	28	[G] Public Interest Case	19
[D] History of Escape	19	[H] Other Life Sentence	19

1. SCORE FACTOR CODE (Assess Only Highest Factor) 85
2. MANDATORY MINIMUM SCORE 86
3. PLACEMENT SCORE ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER 88

H. SPECIAL CASE FACTORS

1. HOLDS, WANTS and DETAINERS (Enter A, P or *) Felony 91 USINS 92
2. RESTRICTED CUSTODY SUFFIX (Enter R or *) 93
3. ELIGIBLE FOR RESTITUTION CENTER (Enter Y or N) 94
4. LEVEL IV DESIGN a) 180 Status (Y/N) _____ b) Reason Code _____
5. US ARMED FORCES (Enter Y or N) 95
6. CURRENT INSTITUTION AND FACILITY 96
7. COUNTY OF LAST LEGAL RESIDENCE 103
8. CASEWORKER'S NAME FI 106

I. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME 115
2. DATE OF ACTION MO DAY YR 123
3. LEVEL IV DESIGN a) 180 Status (Enter Y or *) 129 b) Reason Code 130
4. MINIMUM CUSTODY a) Eligibility (Enter E, L or P) 132 b) Reason Code 133
5. CCRC ELIGIBILITY (Enter REN, REX or *) 136
6. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE 139
7. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) a) (*) Primary (affects placement) 142 b) (*) 146 c) (*) 150 d) (*) 154
8. ADMINISTRATIVE DETERMINANT CODE(S) a) (*) 158 b) (*) 162 c) (*) 166 d) (*) 170 e) (*) 174
9. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP 178
10. INSTITUTION APPROVED 179
11. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT 186

A. IDENTIFYING INFORMATION

1. CDC NUMBER 1
2. INMATE'S LAST NAME 7
3. DATE COMPLETED MO DAY YR 12

3375.5. CDC Readmission Score Sheet, CDC Form 841, Calculation.

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) 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.

(2) Apply one-half favorable behavior points for less than a full six-month review period.

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

(B) For each six-month period since the last review with no serious disciplinary, two points shall be entered in Boxes 50–51.

(C) For each six-month period with an average or above performance in work, school or vocational program, two points shall be entered in Boxes 52–53.

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) Unfavorable behavior since last review (Boxes 54–71):

(1) For each serious misbehavior for which the inmate was found guilty during a six-month review period, apply eight points for a Divisions 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.

(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.

(3) Battery means any offense as described in section 3005(c) 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.

(A) Refers to situations where one or more inmates are clearly the victim. Usually results in some injury involving a group attack or some type of weapon.

(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)(7), in an institution/facility or contract health facility, for distribution and sales, four points shall be entered in Boxes 64–65. 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. 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. 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 injury, 16 points shall be entered in Boxes 70–71. Inmates who conspired in or ordered the battery shall receive the same points.

(A) Serious 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) 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.

(2) When the most current score appears on the CDC Form 839 (Rev. 12/02), 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. 12/02), 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 12/02), CDC Readmission Score Sheet, enter the value from that score sheet that is the new preliminary score.

(d) 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.

(e) 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) Computations that result in a minus value shall be entered as zero.

(f) 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 CDC Form 840 (Rev. 12/02), Reclassification Score Sheet, as a result of this new term. Do not correct the CDC Form 841.

(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 times two. Drop months from the calculation.

(4) Any term point adjustments that may have been recorded on a previous CDC Form 840 or CDC Form 841 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. 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) 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) Computations that result in zero or a minus value shall be entered as zero.

(h) Mandatory Minimum Score, Score Factors, and Score Factor Codes (Boxes 88–89):

(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 an alpha code associated with a mandatory minimum score factor.

1. 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 87.

2. If one or more mandatory minimum score factors is present, determine which of the factors is associated with the highest score and enter that code in Box 87.

3. Enter the mandatory minimum score that corresponds to the selected code in Boxes 88–89.

(i) Placement Score (Boxes 90–92).

(1) If there are no case factors that require a mandatory minimum score, enter the new preliminary score as the placement score.

(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 as the placement score.

(4) The placement score is one of the factors that is used to determine the security level to which the inmate is assigned.

(j) 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.

HISTORY:

1. New section and new form CDC 841 filed 8-27-2002 as an emergency; operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code Section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-27-2002 order, including further amendment of section and repealer and new form CDC 841, transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).

STATE OF CALIFORNIA
CDC 841 (Rev. 12/02)

DEPARTMENT OF CORRECTIONS

CDC READMISSION SCORE SHEET

4. DATE OF LAST SCORE SHEET — MO ___ DAY ___ YR ___ 18
5. COUNTY OF LAST LEGAL RESIDENCE ___ 24
6. FORM IDENTIFICATION (ENTER X in a, b or c) — a) NEW ___ 27 b) CORRECTION ___ 28 DATE CORRECTED MO ___ DAY ___ YR ___ 29 c) DELETE ___ 35

B. READMISSION REVIEW PERIOD CALCULATION

1. DATE PAROLED — MO ___ DAY ___ YR ___ 36
2. REVIEW PERIOD BEGINNING DATE — MO ___ DAY ___ YR ___ 42
3. Total Review Periods Not Previously Addressed ___ MONTHS ___ DAYS ___ YEARS
4. Number of ___ 6 Month Review Periods
5. Partial Review Period (Less Than 6 Months) ___ MONTHS ___ DAYS

C. FAVORABLE BEHAVIOR SINCE LAST REVIEW

Number Of Review Periods
Apply points for each Review Period of 6 Months at full value
Apply points for Review Period less than 6 Months at half value

1. Continuous Minimum Custody ___ x 4 = ___ 48
2. No Serious Disciplinary ___ x 2 = ___ 50
3. Average or Above Performance in Work, School or Vocational Program ___ x 2 = ___ 52
4. TOTAL FAVORABLE POINTS = - ___

D. UNFAVORABLE BEHAVIOR SINCE LAST REVIEW

SERIOUS DISCIPLINARIES — Number of

1. Div. A-1/A-2 Dates: ___ x 8 = ___ 54
   Div. B, C & D Dates: ___ x 6 = ___ 56
   Div. E & F Dates: ___ x 4 = ___ 58
2. Battery or Attempted Battery on a Non-Prisoner Dates: ___ x 8 = ___ 60
3. Battery or Attempted Battery on an Inmate Dates: ___ x 4 = ___ 62
4. Distribution of Drugs Dates: ___ x 4 = ___ 64
5. Possession of a Deadly Weapon Dates: ___ x 16 = ___ 66
6. Inciting a Disturbance Dates: ___ x 4 = ___ 68
7. Battery Causing Serious Injury Dates: ___ x 16 = ___ 70
8. TOTAL UNFAVORABLE POINTS = + ___

E. COMPUTATION OF SCORE

1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 840 or 841) ___ 75
2. Net Change in Score (D. 8 minus C. 4) = (+ or -) ___ 78
3. PRELIMINARY SCORE SUBTOTAL (Not less than 0) = ___
4. Change in Term Points (T/P) (E.2) - Old T/P ___ + New T/P ___ = (+ or -) ___ 81
5. NEW PRELIMINARY SCORE (Not less than 0) = ___ 84

F. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

CODE	SCORE	CODE	SCORE
[A] Condemned	52	[E] Warrants "R" Suffix	19
[B] Life Without Possibility of Parole	52	[F] Violence Exclusion	19
[C] CCR 3075.2(a)(7) Life Inmate	28	[G] Public Interest Case	19
[D] History of Escape	19	[H] Other Life Sentence	19

1. SCORE FACTOR CODE (Assess Only Highest Factor) ___ 87
2. MANDATORY MINIMUM SCORE ___ 88
3. PLACEMENT SCORE — ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER ___ 90

G. SPECIAL CASE FACTORS

1. HOLDS, WARRANTS and DETAINERS (Enter A or P) — Felony ___ 93 USINS ___ 94
2. RESTRICTED CUSTODY SUFFIX (Enter R) ___ 95
3. ELIGIBLE FOR RESTITUTION CENTER (Enter Y or N) ___ 96
4. LEVEL IV DESIGN — a) 180 Status (Y/N) ___ b) Reason Code ___
5. US ARMED FORCES (Enter Y or N) ___ 97
6. CURRENT INSTITUTION AND FACILITY ___ 98
7. RETURN STATUS (Enter RTC or WNT) ___ 105
8. CASEWORKER'S NAME ___ FI ___ 108

H. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME ___ 117
2. DATE OF ACTION — MO ___ DAY ___ YR ___ 125
3. LEVEL IV DESIGN — a) 180 Status (Enter Y to apply) ___ 131 b) Reason Code ___ 132
4. MINIMUM CUSTODY — a) Eligibility (Enter E, L or P) ___ 134 b) Reason Code ___ 135
5. CCRC ELIGIBILITY (Enter REN or REX) ___ 138
6. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE ___ 141
7. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) — a) Primary (affects placement) ___ 144 b) ___ 147 c) ___ 150 d) ___ 153
8. ADMINISTRATIVE DETERMINANT CODE(S) — a) ___ 156 b) ___ 159 c) ___ 162 d) ___ 165 e) ___ 168
9. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP ___ 171
10. INSTITUTION APPROVED ___ 172
11. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT ___ 179

A. IDENTIFYING INFORMATION

1. CDC NUMBER ___ 1
2. INMATE'S LAST NAME ___ 7
3. DATE RECEIVED THIS INCARCERATION — MO ___ DAY ___ YR ___ 12

Original - Central File Canary - OIS Green - Inmate

3376. Classification Committees.

(a) The following terms are defined for the purposes of this section:

(1) Camp means the type of subfacility of an institution which is normally located in a rural area and which has no secure (fenced or walled) perimeter. Camp inmates are generally assigned to conservation and/or road details.

(2) Community-access facility (CAF) means any facility located in the community, administrated by the Parole and Community Services Division, where inmates have access to the community for work or training and which has no secure (fenced or walled) perimeter.

(3) Community correctional facility (CCF) means a facility located in the community, administrated by the Parole and Community Services Division, where inmates do not have unsupervised access to the community and which has a secure (fenced) perimeter.

(4) Facility means any institution, community-access facility, community correctional facility, or any camp or other subfacility of an institution under the jurisdiction of the department.

(5) Institution means a large facility or complex of subfacilities with a secure (fenced or walled) perimeter headed by a warden.

(b) Each facility shall establish classification committees as provided herein. A quorum for any committee at a CAF shall be a minimum of two persons who shall be the chairperson and recorder. A quorum at all other facilities shall be a minimum of three persons who shall be the chairperson, recorder and any other member.

(c) Composition of committees:

(1) Initial and Unit Classification Committees shall consist of:

(A) Facility captain, correctional captain, or CAF/CCF manager (chairperson).

(B) Correctional counselor III, parole administrator I, parole agent III, or assistant CAF/CCF manager; or, for CAF/CCFs only, designated supervisory peace officer at the rank of correctional lieutenant, or above (alternate chairperson).

(C) Correctional counselor II, correctional counselor I, or parole agent II (recorder).

(D) Assignment lieutenant (initial classification), program lieutenant (unit classification), or CAF/CCF inmate assignment/program coordinator.

(E) Educational or vocational program representative.

(F) Other staff as required.

(2) Institution Classification Committees (ICC) and Facility Classification Committees (FCC) shall consist of:

(A) Warden, regional parole administrator, deputy warden, or deputy regional parole administrator (chairperson).

(B) Correctional administrator or parole administrator I (alternate chairperson).

(C) Psychiatrist or physician.

(D) Facility captain.

(E) Correctional captain.

(F) Correctional counselor III, parole agent III, correctional counselor II, or parole agent II (recorder).

(G) Assignment lieutenant or CAF/CCF inmate assignment/program coordinator.

(H) Educational or vocational program representative.

(I) Other staff as required.

(3) Camp Classification Committee shall consist of:

(A) Correctional lieutenant (chairperson).

(B) Correctional counselor I (alternate chairperson, recorder).

(C) Correctional sergeant.

(D) Staff representative of camp contracting agency.

(d) Classification committee functions:

(1) Initial Classification Committees shall:

(A) Evaluate case factors and assist the inmate to understand facility expectations, available programs, and resources.

(B) Initiate an education, vocational training, or work program; designate a credit earning and privilege group; and assign a custody designation for each inmate.

(C) Refer complex cases to the ICC or FCC.

(D) Recommend transfer of a new arrival determined to be inappropriately placed.

(E) Grant work credits to which the inmate is entitled while in transit.

(2) Unit Classification Committees shall:

(A) Review each inmate's case at least annually to consider the accuracy of the inmate's classification score, custody designation, program, work and privilege group, and facility placement, including recommendation for transfer. A parole violator's first annual review may be delayed for up to five months so that it will coincide with classification score updates.

(B) Change in inmate's work/privilege group.

(C) Conduct post board classification on an inmate within 15 days of receipt of official notice of a Board of Prison Terms' decision regarding the inmate.

(D) Act on an inmate's request for restoration of forfeited credits for less than Division C offenses in accordance with section 3327.

(3) Institution and Facility Classification Committees shall:

(A) Recommend transfer of inmates.

(B) Act on cases referred by lower committees.

(C) Review inmate requests for meritorious sentence reduction to determine compliance with Penal Code section 2935.

(D) Make referrals and recommendations through the chief, classification services, for cases requiring Departmental Review Board (DRB) decisions.

(E) Change an inmate's work/privilege group.

(4) Camp classification committees shall perform all functions designated above for unit and initial classification committees.

NOTE: Authority cited: Sections 3303 and 3309, Welfare and Institutions Code; and Sections 5058 and 6252, Penal Code. Reference: Sections 2933, 5054 and 5068, Penal Code.

HISTORY:

1. Repealer and new section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. Repealer and new section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. Repealer and new section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Change without regulatory effect amending section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
8. Editorial correction of printing error in subsection (b)(3)(D) (Register 92, No. 5).
9. Repealer of subsection (b)(2)(C), subsection relettering, and amendment of subsection (b)(3)(E) filed 5-5-95; operative 6-5-95 (Register 95, No. 18).
10. Amendment of subsection (b)(2)(C) and repealer of subsection (b)(3)(E) and subsection relettering pursuant to Penal Code section 5058(e) filed 3-20-96 as an emergency; operative 3-20-96 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-27-96 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 3-20-96 order transmitted to OAL 7-25-96 and filed 9-5-96 (Register 96, No. 36).
12. Amendment of section and Note filed 5-1-97; operative 5-31-97 (Register 97, No. 18).
13. Amendment of subsection (d)(2)(A) filed 7-28-97 as an emergency; operative 7-28-97 (Register 97, No. 31). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 1-5-98 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 7-28-97 order transmitted to OAL 10-27-97 and filed 12-8-97 (Register 97, No. 50).
15. Amendment of subsection (d)(2)(A), new subsection (d)(2)(B), subsection relettering and amendment of subsection (d)(3)(E) filed 1-9-2004 as an emergency; operative 1-9-2004 (Register 2004, No. 2). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-17-2004 or emergency language will be repealed by operation of law on the following day.
16. Amendment of subsection (d)(2)(A), new subsection (d)(2)(B), subsection relettering and amendment of subsection (d)(3)(E) refiled 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
17. Certificate of Compliance as to 6-17-2004 order transmitted to OAL 11-16-2004 and filed 12-29-2004 (Register 2004, No. 53).

3376.1. Departmental Review Board.

The Departmental Review Board (DRB) provides the director's final review of classification issues, which are referred by an institution head for a resolution or decision at the headquarters level. The DRB decision serves as the director's level decision, which is not appealable and concludes the inmate/parolee's departmental administrative remedy of such issues.

(a) Composition of the DRB:

(1) The deputy director or an assistant deputy director of the institutions division (chairperson).

(2) The deputy director or assistant deputy director of the parole and community services division.

(3) The chief of classification services (shall abstain on DRB issues resulting from a difference of opinion between an institution head and the chief of classification services).

(4) The chief of health services.

(b) Two members shall constitute a quorum.

(c) The DRB shall meet at the call of the chairperson.

(d) Referrals shall be made to the DRB when:

(1) An institution head is unable to resolve a difference of opinion with the chief of classification services.

(2) An institution head believes a clarification of departmental policy of statewide importance is required.

(3) An institution head believes a DRB level decision for placement of an inmate is required because of an unusual threat to the safety of persons or public interest in the case, e.g., commuted or modified death sentence or classification of an inactive gang member or associate. Subsequent DRB reviews of the continued placement of inactive gang members or associates in a security-housing unit (SHU) shall occur no earlier than two years after the previous DRB decision. Upon denial of an alternative placement for an inactive gang member or associate, the DRB is authorized to schedule an earlier review of the placement if the DRB determines that it is reasonable to expect that release from SHU will be granted in less than two years.

(4) A difference between a Board of Prison Terms' program placement order and the department's policies cannot be resolved.

(5) An out-of-state or federal prison placement is recommended by the institution classification committee.

(6) Meritorious credit is recommended by an institution classification committee to reduce an inmate's period of confinement pursuant to Penal Code Section 2935.

(7) The inmate's current placement was ordered by the DRB and there is no documentation in the inmate's central file to indicate that the DRB has relinquished responsibility for the inmate's placement.

(e) Decisions of the DRB shall be in writing and implemented within 30 calendar days after the decision is made.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin* v. *Connor* (1995) 515 U.S. 472; and *Madrid* v. *Gomez* (N.D.Cal. 1995) 889 F.Supp. 1146.

HISTORY:

1. New section filed 1-16-92; operative 2-17-92 (Register 92, No. 13).
2. Amendment of subsection (d)(3) and Note filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).

3377. Facility Security Levels.

Each camp, facility, or area of a facility complex shall be designated at a security level based on its physical security and housing capability. Reception centers are not facilities of assignment and are exempt from the security level designations except for the assignment of permanent work crew inmates. The security levels are:

(a) Level I facilities and camps consist primarily of open dormitories with a low security perimeter.

(b) Level II facilities consist primarily of open dormitories with a secure perimeter, which may include armed coverage.

(c) Level III facilities primarily have a secure perimeter with armed coverage and housing units with cells adjacent to exterior walls.

(d) Level IV facilities have a secure perimeter with internal and external armed coverage and housing units described in section 3377(c), or cell block housing with cells non-adjacent to exterior walls.

NOTE: Authority cited: Section 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Change without regulatory effect amending section filed 10-22-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 4).
8. Editorial correction of printing errors (Register 91, No. 11).
9. Editorial correction of printing error in subsection (b) (Register 92, No. 5).

10. Amendment of section heading, first paragraph and Note filed 8-27-2002 as an emergency, operative 8-27-2002 (Register 2002, No. 35). Pursuant to Penal Code section 5058.3 a Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 8-27-2002 order transmitted to OAL 1-21-2003 and filed 3-6-2003 (Register 2003, No. 10).

3377.1. Inmate Custody Designations.

(a) Designation of a degree of an inmate's custody shall be reasonably related to legitimate penological interests. The CDC uses the following inmate custody designations to establish where an inmate shall be housed and assigned, and the level of staff supervision required to ensure institutional security and public safety:

Maximum Custody,
Close A Custody,
Close B Custody,
Medium A Custody,
Medium B Custody,
Minimum A Custody,
Minimum B Custody,

(1) Maximum Custody.

(A) Housing shall be in cells in an approved segregated program housing unit as described in CCR section 3335 and CCR subsections 3341.5(b) and 3341.5(c).

(B) Assignments and activities shall be within the confines of the approved segregated program housing unit.

(C) An inmate designated as Maximum Custody shall be under the direct supervision and control of custody staff.

(2) Close A Custody Male Inmates.

(A) Housing shall be in cells within Level III and Level IV facilities in housing units located within an established facility security perimeter.

(B) Close A Custody inmates shall be permitted to participate in program assignments and activities scheduled within the hours of 0600 hours to 1800 hours unless hours are extended by the Warden to no later than 2000 hours when it is determined that visibility is not compromised in areas located within the facility security perimeter. Bases for the extended hours include operational necessity, daylight savings time, or availability of high mast lighting. Close A Custody inmates are not permitted beyond the work change area.

(C) Custody staff supervision shall be direct and constant. In addition to regular institutional counts, Close A Custody male inmates shall be counted at noon each day.

(3) Close A Custody Female Inmates.

(A) Housing shall be in cells or in a designated Close Custody dormitory.

(B) Close A Custody female inmates shall be permitted to participate in program assignments and activities scheduled within the hours of 0600 hours to 1800 hours unless hours are extended by the Warden to no later than 2000 hours when it is determined that visibility is not compromised in areas located within the facility security perimeter and the work change area. Bases for the extended hours include operational necessity, daylight savings time, or availability of high mast lighting.

(C) Custody staff supervision shall be direct and constant. In addition to regular institutional counts, Close A Custody female inmates shall be counted at noon each day.

(4) Close B Custody Male Inmates.

(A) Housing shall be in cells within designated institutions in housing units located within an established facility security perimeter.

(B) Close B Custody inmates shall be permitted to participate in program assignments and activities during the hours of 0600 hours to 2000 hours in areas located within the facility security perimeter including beyond the work change area in a designated Level II, Level III or Level IV institution. Close B Custody inmates may participate in designated work program assignments until 2200 hours when the work program is in an assigned housing unit located within the facility security perimeter. Close B Custody inmates may participate in limited evening activities after 2000 hours until the general evening lockup and count when the limited activity is in a designated housing unit located within the facility security perimeter.

(C) The work supervisor shall provide direct and constant supervision of Close B Custody inmates during the inmates' assigned work hours.

(D) Custody staff shall provide direct and constant supervision of Close B Custody inmates at all times.

(5) Close B Custody Female Inmates.

(A) Housing shall be in cells or in a designated Close Custody dormitory located within an established facility security perimeter.

(B) Close B Custody female inmates shall be permitted to participate in program assignments and activities during the hours of 0600 hours to 2000 hours in areas located within the facility security perimeter, including beyond the work change area, in designated Level II, Level III and Level IV institutions.

Code B Custody female inmates may participate in work program assignments until 2200 hours when the work program is in an assigned housing unit located within the facility security perimeter. Close B Custody female inmates may participate in limited evening activities after 2000 hours until the general evening lockup and count when the limited activity is in an assigned housing unity located within the facility security perimeter. (6) Medium A Custody.

(C) The work supervisor shall provide direct and constant supervision of Close B Custody inmates during the inmates' assigned work hours.

(D) Custody staff shall provide direct and constant supervision of Close B Custody inmates at all times.

(6) Medium A Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignments and activities shall be within the facility security perimeter.

(C) Supervision shall be frequent and direct.

(7) Medium B Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignments and activities shall be within the facility security perimeter. Inmates may be given daytime assignments outside the facility security perimeter but must remain on facility grounds.

(C) Custody staff shall provide frequent and direct supervision inside the facility security perimeter. Custody staff shall provide direct and constant supervision outside the facility security perimeter.

(8) Minimum A Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignments and activities may be inside or outside the facility security perimeter.

(C) Staff supervision shall consist of at least hourly observation if assigned outside the facility security perimeter. Sufficient staff supervision of the inmate shall be provided to ensure the inmate is present if assigned inside the facility security perimeter.

(9) Minimum B Custody.

(A) Housing may be in cells or dormitories on facility grounds, in a camp, in a Minimum Support Facility (MSF) or in a community based facility such as a Community Correctional Facility.

(B) Assignments and activities include eligibility for work or program assignments located either on or off institutional grounds.

(C) Sufficient staff supervision shall be provided to ensure the inmate is present.

(b) An "R" suffix shall be affixed to an inmate's custody designation to ensure the safety of inmates, correctional personnel, and the general public by identifying inmates who have a history of specific sex offenses as outlined in Penal Code (PC) Section 290.

(1) The "R" suffix shall be affixed during reception center processing if one of the following four criteria:

(A) The inmate is required to register per PC Section 290

(B) The inmate's parole was revoked by the Board of Parole Hearings (BPH) formerly known as the Board of Prison Terms/ Parole Hearing Division, Good Cause/Probable Cause Finding of an offense that is equivalent to an offense listed in PC Section 290.

(C) The inmate had a BPH formerly known as California Youth Authority/Youth Offender Parole Board sustained adjudication of an offense that is equivalent to an offense listed in PC Section 290.

(D) The inmate had a valid "R" suffix evaluation as defined in this section, resulting in the "R" suffix being affixed.

(2) Inmates with a prior "R" suffix evaluation inconsistent with Section 3377.1(b)(5) shall not have an "R" suffix applied. An "R" suffix evaluation must be completed at the receiving institution.

(3) Within six months of reception or at any time during an incarceration, inmates with records of arrest, detention, or charge of any offenses listed in PC Section 290, shall appear before a classification committee to determine the need to affix an "R" suffix to the inmate's custody designation. The committee shall consider the arrest reports and district attorney's comments related to each arrest.

(A) An inmate found guilty in a disciplinary hearing of a Division A-1, A-2, or B offense that is equivalent to an offense listed in PC Section 290 shall have an "R" suffix evaluation completed by a classification committee.

(4) The receiving institution's initial classification committee shall affix the "R" suffix designation to an inmate's custody during initial classification committee review when it is determined the "R" suffix was not applied at the reception center and the inmate meets one of the criteria listed in Subsection 3377.1(b)(1).

(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 the attempts/ steps taken to obtain the required documentation.

(A) An "R" suffix shall not be affixed when the required documentation is not available for review, unless approved by Departmental Review Board (DRB) decision. If the arrest report is unavailable, the district attorney's comments or any other court or official documents shall be considered if available.

(B) DRB approval is required to affix an "R" suffix to an inmate's degree of custody if the required relevant documents are not available to complete an "R" suffix evaluation.

(6) If a Unit Classification Committee (UCC) finds that an inmate may no longer require an "R" suffix, the committee shall refer the case to the Institution Classification Committee (ICC) for review.

(7) Should a different facility UCC at the same institution disagree with the initial UCC's decision to either affix or not affix the "R" suffix, the committee must refer the case to ICC for review.

(8) ICC can reverse an "R" suffix evaluation by a previous institution's ICC only if new and compelling information is obtained. Otherwise, the case shall be referred for a DRB decision.

(9) An "R" suffix shall not be applied if the inmate was acquitted/found not guilty of the sex related charges in a court of law even if BPH Good Cause/Probable Cause Finding revoked his/her parole for those sex related charges.

(10) Inmates with "R" suffixes shall be housed in accordance with their placement score and shall not be assigned outside the security perimeter.

(11) Inmates who have obtained a valid Certificate of Rehabilitation pursuant to PC Section 4852.01 shall not have an "R" suffix affixed.

(12) An inmate whose "R" suffix has been removed shall be eligible for any housing or assignment for which they otherwise would qualify had the "R" suffix never been designated.

(13) The following terms are defined for the purposes of the "R" suffix custody designation:

(A) Institution means a large facility or complex of subfacilities with a secure (fenced or walled) perimeter headed by a warden.

(B) Facility means a subfacility of an institution headed by a facility captain.

(c) An "S" suffix may be affixed by a classification committee to the inmate's custody designation to alert staff of an inmate's need for single cell housing. The classification committee's decision to affix the "S" suffix shall be based on documented evidence that the inmate may not be safely housed in a double cell or dormitory situation based on a recommendation by custody staff or a health care clinician.

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. s 12131, et seq.; and *Pennsylvania Department of Corrections* v. *Yeskey* (1998) 524 U.S. 206.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Change without regulatory effect amends section filed 10-22-90 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 4).
8. Editorial correction of printing error inadvertently omitting text (Register 91, No. 11).
9. Editorial correction of printing error in subsection (a)(9)(B) (Register 92, No. 5).
10. Amendment filed 3-27-2000 as an emergency; operative 3-27-2000 (Register 2000, No. 13). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 9-5-2000 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 3-27-2000 order transmitted to OAL 9-5-2000; disapproval and order of repeal and deletion reinstating section as it existed prior to emergency amendment by operation of Government Code 11346.1(f) filed 10-18-2000 (Register 2000, No. 42).

12. Amendment filed 10-19-2000 deemed an emergency pursuant to Penal Code section 5058(e); operative 10-19-2000 (Register 2000, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL By 3-27-2001 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 10-19-2000 order, including further amendment of subsections (a), (a)(2)(B) and (a)(3)(B) and amendment of Note, transmitted to OAL 3-27-2001 and filed 5-3-2001 (Register 2001, No. 18).
14. Amendment of subsections (b)–(b)(1)(D), repealer of subsections (b)(1)(E)–(K), amendment of subsections (b)(2)–(3), new subsection (b)(3)(A), amendment of subsections (b)(4)–(5), new subsections (b)(5)(A)–(b)(13)(B) and amendment of Note filed 11-3-2006; operative 12-3-2006 (Register 2006, No. 44).

3377.2. Criteria for Assignment of Close Custody.

(a) Close Custody: Upon review of an inmate's case factors and need for supervision, the classification committee shall establish a Close Custody designation in accordance with the following case considerations when it determines that the inmate meets case factor criteria for either Close A Custody as listed in section 3377.2(b) or for Close B Custody as listed in section 3377.2(c).

(1) The case factors to be considered in assigning Close Custody include, but are not limited to, the following:

(A) the inmate's total term, sentence, or remaining time-to-serve;

(B) the inmate's escape history;

(C) identification of a management concern;

(D) receipt of an active law enforcement felony hold;

(E) a finding of guilt for a serious Rules Violation Report (RVR) (see section 3315);

(F) an inmate who is considered to be High Notoriety or is designated as a Public Interest Case.

(2) Departmental Review Board (DRB) approval is required to assign a Close Custody designation to an inmate who does not meet the case factor criteria established in this section. Authorization for the DRB shall be required before extending a Close Custody designation beyond the time constraints established for the most similar group of sentences.

(3) Custody determination shall be based on information available at the time of review. An ICC may temporarily assign a Close Custody designation to an inmate, for a maximum of ninety (90) days, pending receipt of documents or verification of information needed to make a final determination.

(4) Any inmate being evaluated for reduction of Close Custody shall demonstrate a record of disciplinary-free behavior and compliance with behavioral expectations, such as positive programming and participation for the last 12 months prior to the review.

(5) The Annual Classification Committee review shall include consideration of custody reduction.

(6) When calculating the time to be served in Close Custody in accordance with the case factor criteria, a classification committee shall count an inmate's behavior conforming to minimum expectations in the California Youth Authority (CYA) prior to the inmate's placement in CDC during the inmate's current term.

(7) When calculating the time served in Close Custody in accordance with case factor criteria, a classification committee shall not include periods of time that an inmate was serving a determinate or indeterminate term in Security Housing Unit (SHU) or in Administrative Segregation Unit (ASU) or any segregated program housing unit.

(8) In cases involving an escape, the date of the escapee's return to CDC custody shall be the starting date to be used in calculating the start of the Close Custody time frame.

(9) An inmate who meets the Close Custody case factor criteria and who also has a documented health care or disability special housing need, which cannot be reasonably accommodated in the existing facility shall be referred by classification committee to the Classification Staff Representative (CSR) for transfer consideration.

(10) An inmate who is identified to be a management concern shall be ineligible for custody reduction consideration below Close B Custody. Upon review and determination that an inmate no longer presents a management concern, a Unit Classification Committee shall refer the case to Institutional Classification Committee (ICC) for review. The ICC may remove the identification of the inmate as a management concern based on consideration of the inmate's long-term positive programming, evaluation of the inmate's behavior in custody, and determination that the inmate no longer presents a continuing threat to public safety warranting Close B Custody.

(11) The classification committee is to consider the inmate's length of term or remaining time to serve in light of the inmate's escape history. An inmate with an escape history shall serve the longest required amount of time before becoming eligible for custody reduction below Close A Custody and shall also serve the longest required amount of time before being eligible for custody reduction below Close B Custody.

(12) An inmate who meets more than one Close A Custody case factor shall be designated Close A Custody for the longest required amount of time before becoming eligible for Close B Custody consideration.

(13) An inmate who meets more than one case factor for Close B Custody shall serve the longest required amount of time before he or she is to be eligible for consideration of further custody reduction.

(14) An inmate who is ineligible for further custody reduction based on any exclusionary case factor shall be precluded from further custody reduction.

(15) Upon classification committee review and determination that an inmate meets the Close Custody criteria, the inmate shall be designated Close Custody and shall be required to complete established time frames for Close A Custody and Close B Custody in compliance with Sections 3377.2(b) and 3377.2(c). Neither the inmate's projected date of release nor the inmate's earliest possible release date shall override established time frames.

(16) A classification committee may on a case-by-case basis consider for Medium A Custody an inmate who otherwise meets the Close Custody criteria [e.g., the minimum time periods for Close A and Close B Custody provided in subsections (b) and (c)] and who has been in CDC custody before March 2000 serving his or her instant offense. The inmate may retain Medium A Custody if the classification committee determines that the inmate's current housing, program, and in-custody behavior do not substantiate a need for supervision and restrictive housing at the level of Close Custody and one of the following conditions are met:

(A) The inmate has already demonstrated positive programming for an equal or greater period of time at a less restrictive degree of custody during his or her present commitment and a classification committee has determined that the inmate has no history of escape, is not a management concern, is not an LWOP, and has no active law enforcement hold.

(B) The inmate was not designated Close Custody upon initial period of incarceration and has since served more than half of the required amount of time for Close Custody at a less restrictive degree of custody, and a classification committee has determined that the inmate has no history of escape, has no active law enforcement hold, is not an LWOP, and is not a management concern.

(C) The inmate is sentenced to a single Life term and has less than two years to be within seven years of MEPD and a classification committee has determined that the inmate does not

demonstrate a significant risk of escape, has no history of escape, is not a management concern, and has no active law enforcement hold.

(b) Close A Custody Case Factor Criteria: An inmate who meets any of the Close A Custody case factor criteria described in this subsection shall be assigned to Close A Custody.

(1) Lengthy Sentence. An inmate serving a sentence of Life Without the Possibility of Parole (LWOP) shall serve his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for custody reduction consideration.

(2) Lengthy Sentence plus Management Concern and/or Escape History. An inmate who demonstrates a management concern and/or an escape history in addition to serving a lengthy sentence as defined below shall require Close A Custody:

(A) An inmate with a management concern and/or an escape history sentenced to a Total Term of 50 years or more shall serve at least his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate with a management concern and/or an escape history who is sentenced to more than one Life sentence shall serve his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate with a management concern and/or an escape history who is sentenced to a Life sentence shall serve at least his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(D) An inmate with a management concern and/or an escape history who is sentenced to a total term of fifteen (15) years or more but less than 50 years shall serve at least his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(3) An inmate whose precommitment and prior in-custody behavior demonstrates no management concern and reflects no escape history, but whose term of incarceration meets any of the following criteria shall require Close A Custody:

(A) An inmate who is sentenced to a Total Term of 50 years or more shall serve at least his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate who is sentenced to more than one Life sentence shall serve at least his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate who is sentenced to a Life sentence shall serve his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(D) An inmate who is sentenced to a total term of 15 years or more, but less than 50 years, shall serve his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(4) Escape History. An inmate with a documented escape history (as reflected in State, Federal, local or juvenile criminal history) as described in this section shall be assigned to Close A Custody:

(A) An inmate convicted of or whose commitment offense includes Escape With Force or Attempted Escape With Force from any correctional setting or armed escort occurring within the last five (5) years of return to CDC custody shall serve his or her first eight (8) years upon receipt in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate convicted of or whose commitment offense includes Escape Without Force or Attempted Escape Without Force From Secure Perimeter or Armed Escort within the last five (5) years of return to CDC custody shall serve his or her first five (5) years of incarceration upon receipt in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate convicted, or found guilty of any serious RVR for plotting or planning to escape from a secure perimeter shall require Close A Custody for two (2) years from the date of the conviction or from the date charges were adjudicated, whichever is later, before he or she shall be eligible for consideration of custody reduction.

(5) Holds. An inmate who is subject to an active law enforcement hold as described below shall require Close A Custody as follows:

(A) An inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing as an LWOP, to serve Multiple Life Terms, or to serve a Determinate Sentence or Total Term of 50 years or more shall require Close A Custody for at least five (5) years from the date of receipt of the hold unless the hold is removed. After initial five years at Close A Custody, the inmate shall be eligible to be considered for custody reduction to Close B Custody.

(B) An inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing to a Total Term of Life or a determinate term or Total Term of 15 years or more shall require Close A Custody for at least one (1) year from the date of receipt of the hold unless the hold is removed. After at least one (1) year at Close A Custody, the inmate shall be eligible for consideration for custody reduction to Close B Custody.

(6) Disciplinary History. An inmate who was found guilty of a serious RVR or convicted of an offense in custody as described in this subsection shall require Close A Custody as follows:

(A) An inmate found guilty of an in-custody Murder of A Non-Inmate or convicted of an in-custody Murder of A Non-Inmate shall be designated Close A Custody following his or her release from SHU. Close A Custody is required during the inmate's remaining Total Term after release from SHU. Custody shall not be reduced from Close A Custody.

(B) An inmate found guilty of an in-custody Murder of an Inmate or convicted of an in-custody Murder of an Inmate within the last six (6) years shall serve at least the subsequent six (6) years at Close A Custody following release from SHU before he or she shall be eligible for consideration of further custody reduction.

(7) Notoriety. An inmate designated as a Public Interest Case or who is considered to have High Notoriety shall serve at least his or her first five (5) years in Close A Custody before he or she shall be eligible for consideration of further custody reduction.

(c) Close B Custody Case Factor Criteria: An inmate who meets the Close B Custody case factor criteria described in this subsection shall be assigned to Close B Custody.

(1) Life Without Possibility of Parole. Upon completing five (5) years at Close A Custody, an inmate who is sentenced to LWOP shall serve at least the subsequent ten (10) years at Close B Custody. An inmate who is designated as an LWOP shall be ineligible for further reduction of custody below Close B Custody until after at least a total of fifteen (15) years at Close Custody. Level IV housing is required for the inmate's Total Term unless the DRB authorized Level III housing as a result of a case-by-case review.

(2) Lengthy Sentence Plus Management Concern or Escape history. An inmate who is sentenced to a lengthy sentence and who demonstrates a management concern and/or an escape history as defined below shall require Close B Custody:

(A) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who is sentenced to a Total Term of 50 years or

more shall be assigned no less restrictive custody than Close B Custody. The inmate shall be ineligible for further reduction of custody.

(B) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who sentenced to more than one Life sentence shall be assigned no less restrictive custody than Close B Custody. The inmate shall be ineligible for further reduction of custody.

(C) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who is sentenced to a Life sentence shall be assigned no less restrictive custody than Close B Custody. The inmate shall be ineligible for further reduction of custody.

(D) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who is sentenced to a Total Term of fifteen (15) years or more, but less than 50 years, shall be assigned to no less restrictive custody than Close B Custody. The inmate shall be ineligible for further reduction of custody.

(3) Lengthy Sentence. An inmate who demonstrates no management concerns and no escape history, but is sentenced to a Total Term as defined below shall require Close B Custody.

(A) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates no management concerns and no escape history, and is sentenced to a Total Term of 50 years or more shall serve the subsequent ten (10) years at Close B Custody.

(B) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates no management concerns and no escape history, but who is sentenced to more than one Life sentence shall be assigned to Close B Custody. He or she must be within seven (7) years of his or her Minimum Eligible Parole Date (MEPD) before he or she is eligible for further reduction of custody.

(C) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates no management concerns and no escape history, and who is sentenced to a Life sentence shall be assigned to Close B Custody. He or she must be within seven (7) years of his or her MEPD before he or she is eligible for further reduction of custody. An inmate sentenced to Life may be considered for placement in a designated Level II facility when the inmate has a Level II Classification Score, is otherwise eligible for housing in a Designated Level II facility, and meets criteria per CCR section 3375.2(a)(7). However, an inmate identified as a serial killer shall be excluded from Level I or Level II placement even if his or her convictions for murders are prosecuted separately.

(D) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates no management concerns and no escape history, and is sentenced to a Total Term of fifteen (15) years or more, but not more than 50 years, shall serve the subsequent four (4) years at Close B Custody before he or she is eligible for further reduction of custody. Such an inmate may be considered for placement in a Designated Level II Facility when the inmate has a Level II Classification Score, is otherwise eligible for housing in a Designated Level II facility, and meets criteria per CCR section 3375.2(a)(7).

(4) Escape History. An inmate with a documented escape history as described in this section shall be assigned to Close B Custody:

(A) Upon completing at least eight (8) years at Close A Custody, an inmate who is convicted of or found guilty of a serious RVR or whose commitment offense includes Escape With Force or Attempted Escape With Force from any correctional setting or armed escort shall serve the subsequent two (2) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody.

(B) Upon completing at least five (5) years at Close A Custody, an inmate convicted of or whose commitment offense includes Escape Without Force or Attempted Escape Without Force From Secure Perimeter Facility or Armed Escort shall serve the subsequent five (5) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody.

(C) Upon completing at least two (2) years at Close A Custody, an inmate involved in a documented plot to escape from a secure perimeter facility shall serve the subsequent two (2) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody. An inmate with a history of walkaways from nonsecure settings shall not be placed in minimum custody settings for at least ten (10) years following the latest walkaway.

(5) Holds. An inmate who is subject to an active law enforcement hold as described below shall require Close B Custody as follows:

(A) After at least five (5) years at Close A Custody, an inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing as an LWOP, to Multiple Life Terms, or to a Determinate Sentence or Total Term of 50 years or more shall be Close B Custody until the hold is removed.

(B) After at least one (1) year at Close A Custody, an inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing to a Total Term of Life or a determinate term or Total Term of fifteen (15) years or more shall be Close B Custody until the hold is removed.

(6) Disciplinary History. An inmate whose disciplinary history includes any of the criteria described in this subsection shall require Close B Custody:

(A) An inmate found guilty of an in custody serious RVR for the Murder of a Non-Inmate or convicted of Murder of a Non-Inmate shall require Close A Custody during his or her remaining term after release from SHU. The inmate shall be ineligible for Close B Custody or any reduction of custody.

(B) Upon completing at least six years at Close A Custody, an inmate found guilty of an in custody serious RVR for the Murder of an Inmate or convicted of Murder of an Inmate shall serve the subsequent four (4) years at Close B Custody before he or she shall be eligible for consideration of further reduction of custody.

(C) An inmate found guilty of a Division A-1 or Division A-2 serious, as set forth in section 3323, or who is determined by a classification committee to demonstrate a pattern of, or a continuing propensity for, violence, escape or narcotic distribution, shall serve two (2) years at Close B Custody before he or she shall be eligible for consideration of further reduction of custody.

(D) An inmate designated as a former gang member (''drop-out'') shall be required to undergo a period of observation and be designated by classification committee action as a Close B Custody inmate for one (1) year before he or she shall be eligible for consideration of further reduction of custody.

(7) Notoriety. After at least five (5) years at Close A Custody, an inmate designated as a Public Interest Case or determined to have High Notoriety shall serve at least five (5) years in Close B Custody before consideration of further reduction of custody.

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

HISTORY:

1. New section filed 3-27-2000 as an emergency; operative 3-27-2000 (Register 2000, No. 13). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 9-5-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-27-2000 order transmitted to OAL 9-5-2000; disapproval and order of repeal and deletion repealing section by operation of Government Code 11346.1(g) filed 10-18-2000 (Register 2000, No. 42).
3. New section filed 10-19-2000 deemed an emergency pursuant to Penal Code section 5058(e); operative 10-19-2000 (Register 2000, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-27-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-19-2000 order, including further amendment of section and Note, transmitted to OAL 3-27-2001 and filed 5-3-2001 (Register 2001, No. 18).

3378. Documentation of Critical Case Information.

(a) Any information regarding an inmate/parolee which is or may be critical to the safety of persons inside or outside an institution shall be documented as required below on a CDC Form 812 (Rev. 8/01), Notice of Critical Case Information-Safety of Persons (Nonconfidential Enemies); a CDC Form 812-A (9/92), Notice of Critical Information-Prison Gangs Identification; CDC Form 812-B (9/92), Notice of Critical Information-Disruptive Group Identification; and CDC Form 812-C (Rev. 8/01), Notice of Critical Information-Confidential Enemies. The CDC Forms 812, 812-A, 812-B, and 812-C and all documents referred to on the forms shall be filed in the central file of each identified inmate/parolee. Any confidential material affecting the critical case factors of an inmate/parolee 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 CDC Form 812, and when applicable a CDC Form 812-C, shall be completed for each newly committed or returned inmate/parolee.

(1) The CDC Forms 812 and 812-C shall be updated as any critical information becomes known and is documented in the inmate/parolee's central file. The forms shall also be reviewed and updated at the time of any change in the inmate/parolee's status or placement.

(2) Any inmate/parolee who claims enemies shall provide sufficient information to positively identify the claimed enemy. Any inmate/parolee 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 a CDC Form 128-B, General Chrono.

(3) Notations on the CDC Forms 812 and 812-C, 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.

(1) CDC Form 812-A or B shall be completed if an inmate/parolee has been verified as a currently active member/associate, inactive member/associate or dropout of a gang (prison gang or disruptive group) as defined in section 3000. Current activity is defined as any documented gang activity within the past six (6) years consistent with section 3341.5(c)(5).

(2) Information entered onto the CDC Form 812-A or B shall be reviewed and verified by a gang investigator to ensure that the identification of an inmate/parolee as a currently active gang member or associate is supported by at least three independent source items in the inmate/parolee's central file. The independent source items must contain factual information or, if from a confidential source, meet the test of reliability established in section 3321. The verification of an inmate/parolee identified as a gang dropout shall require a formal debriefing conducted or supervised by a gang investigator.

(3) A member is an inmate/parolee who has been accepted into membership by a gang. This identification requires at least three (3) independent source items of documentation indicative of actual membership. Validation of an inmate/parolee as a member of a prison gang shall require that at least one (1) source item be a direct link to a current or former validated member or associate of the gang.

(4) An associate is an inmate/parolee who is involved periodically or regularly with members or associates of a gang. This identification requires at least three (3) independent source items of documentation indicative of association with validated gang members or associates. Validation of an inmate/parolee as an associate of a prison gang shall require that at least one (1) source item be a direct link to a current or former validated member or associate of the gang.

(5) A dropout is an inmate/parolee who was either a gang member or associate and has discontinued gang affiliation. This identification requires the inmate/parolee to successfully complete the debriefing process.

(6) The verification of an inmate/parolee's gang identification shall be validated or rejected by the chief, office of correctional safety (OCS), or a designee.

(A) Prior to submission of a validation package to the OCS, or during the inactive status review process, the subject of the investigation shall be interviewed by the Institution Gang Investigator, or designee, and given an opportunity to be heard in regard to the source items used in the validation or inactive status review.

(B) Inmates shall be given written notice at least 24 hours in advance of the interview. The interview may be held earlier if the inmate waives, in writing, the 24-hour preparation period.

(C) All source items referenced in the validation or inactive status review shall be disclosed to the inmate at the time of notification. The inmate shall be given copies of all nonconfidential documents unless otherwise requested in writing by the inmate. Confidential information used in the validation or inactive status review shall be disclosed to the inmate via a CDC Form 1030 (Rev. 12/86), Confidential Information Disclosure Form.

(D) The interview shall be documented and include a record of the inmate's opinion on each of the source items used in the validation. Staff shall record this information and provide a written record to the inmate within fourteen (14) calendar days and prior to submission of the validation package to OCS.

(E) The documented interview shall be submitted with the validation package to the OCS for consideration to approve or reject the validation. The documented interview shall be submitted with the inactive status review to the OCS for consideration of the inmate's continued current active or inactive status.

(F) The inmate's mental health status and/or need for staff assistance shall be evaluated prior to interview. Staff assistance shall be assigned per guidelines set forth in section 3318.

(G) The validation and/or rejection of evidence relied upon shall be documented on a CDC Form 128-B2 (Rev. 5/95), Gang Validation/Rejection Review, and forwarded to the facility or parole region of origin for placement in the inmate/parolee's

central file. Upon receipt of the CDC Form 128-B2, the Classification and Parole Representative or Parole Administrator I, or their designee, shall clearly note in some permanent manner upon the face of every document whether or not the item met validation requirements.

(7) The CDC Forms 812-A and 812-B shall be reviewed by a classification committee at each annual hearing and upon any review for transfer consideration. This shall be documented on a CDC Form 128-G (Rev. 10/89), Classification Chrono. Questionable gang identifications, notations, or new information shall be referred to a gang investigator for investigation.

(8) The determination of a gang identification shall reference each independent source item in the inmate/parolee's central file. The sources shall be based on the following criteria:

(A) Self admission. Staff shall document information about the inmate/parolee's self-admission and specific involvement with the 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.

(B) Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been identified by gang investigators as begin used by and distinctive to specific gangs. Staff shall describe the tattoo or symbol and articulate why it is believed that the tattoo is used by and distinctive of gang association or membership. 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.

(C) Written material. Any material or documents evidencing gang activity such as the membership or enemy lists, constitutions, organizational structures, codes, training material, etc., of specific gangs. Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of association or membership with the 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.

(D) Photographs. Individual or group photographs with gang connotations such as those which include insignia, symbols, or validated gang affiliates. The date of a photograph shall be reasonably ascertained prior to any photo being relied upon for inclusion as a source item. No photograph shall be considered for validation purposes that is estimated to be older than six (6) years. Any photograph being utilized as a source item that depicts gang members shall require that at least one of the individuals be previously validated by the department, or validated by the department within six (6) months of the photograph's established or estimated date or 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.

(E) Staff information. Documentation of staff's visual or audible observations which reasonably indicate gang activity. Staff shall articulate the basis for determining the content or conduct at issue is gang related. 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.

(F) Other agencies. Information evidencing gang affiliation provided by other agencies. Verbal information from another agency shall be documented by the staff person who receives such information, citing the course 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.

(G) Association. Information related to the inmate/parolee's association with validated gang affiliates. Information including addresses, names, identities and reasons why such information is indicative of association with a prison gang or disruptive group. 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.

(H) Informants. Documentation of information evidencing gang affiliation from an informant shall indicate the date of the information, whether the information is confidential or nonconfidential, and an evaluation of the informant's reliability. Confidential material shall also meet the requirements established in section 3321. Staff shall articulate how the information specifically relates to the inmate's involvement with the gang as a member or associate. The information may be used as a source of validation if the informant provides specific knowledge of how he/she knew the inmate to be involved with the gang as a member or associate. Multiple confidential sources providing information regarding a single gang related incident or behavior shall constitute one (1) source item. Exclusive reliance on hearsay information provided by informants will not be used for validation purposes. 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.

(I) Offenses. Where the circumstances of an offense evidence gang affiliation such as where the offense is between rival gangs, the victim is a verified gang affiliate, or the inmate/parolee's crime partner is a verified gang affiliate. Staff shall articulate why an offense is gang related. Multiple sources of information relative to a single incident or offense will be considered one (1) source of validation. 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.

(J) Legal documents. Probation officer's report or court transcripts evidencing gang activity. Staff shall assure the document containing this information is disclosed to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

(K) Visitors. Visits from persons who are documented as gang ''runners'', or community affiliates, or members of an organization which associates with a gang. Staff shall articulate the basis for determining that the relationship between the visitor and inmate is gang related in nature or that the visitor and inmate engaged in a gang related discussion or gang conduct. Staff shall articulate the basis for identifying the visitor as associated with the 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.

(L) Communications. Documentation of telephone conversations, conversations between inmates, mail, notes, greeting cards, or other communication, including coded messages evidencing gang activity. Staff shall articulate why, based on either the explicit or coded content, the communication is reliable evidence of association or membership with the 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.

(M) Debriefing reports. Documentation resulting from the debriefing required by (c)(2), above. Only information referencing specific gang related acts or conduct shall be considered as a source item. Multiple sources of information relative to a single gang related offense or activity shall be considered a single source of validation. 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.

(d) An inmate housed in the general populations as a gang member or associate may be considered for review for inactive status when the inmate has not been identified as having been involved in gang activity for a minimum of two (2) years.

Verification of an inmate's inactive status shall be approved or rejected by the OCS, chief or a designee. The approval or rejection shall be forwarded for placement in the inmate's central file. The Institution Classification Committee shall review and consider this determination at the next hearing and upon review for transfer consideration.

(e) An inmate housed in a security housing unit (SHU) as a gang member or associate may be considered for review of inactive status by the Department Review Board when the inmate has not been identified as having been involved in gang activity for a minimum of six (6) years. Verification of an inmate's inactive status shall be approved or rejected by the chief, OCS, or a designee. The approval or rejection shall be forwarded for placement in the inmate's central file.

(f) A gang member or associate, who is categorized as inactive or validated as a dropout of a prison gang and released from a SHU, may be removed from the general population or any other placement based upon one reliable source item identifying the inmate as an active gang member or associate of the prison gang with which the inmate was previously validated. The source item must identify the inmate as a gang member or associate based on information developed after his or her release from SHU. The source item need not be confidential, but must meet the test of reliability established at section 3321.

(g) The procedures relating to the initial validation or rejection of gang members or associates as described in this section shall be followed when reviewing the present status of an inactive gang member or associate. Verification of an inmate's active status shall be approved or rejected by the chief, OCS, or a designee. This determination shall be forwarded for placement in the inmate's central file.

(h) A classification committee is authorized to return an inmate to a SHU based upon the restoration of the inmate's gang status and a determination that the inmate's present placement endangers institutional security or presents a threat to the safety of others. As provided at section 3341.5, placement in a SHU requires approval by a classification staff representative.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 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).

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Amendment of section heading and text and repealer and new forms filed 6-17-94; operative 7-18-94 (Register 94, No. 24).
8. Amendment of subsections (c)(2)–(3) filed 6-1-95 as an emergency; operative 6-1-95 (Register 95, No. 22). A Certificate of Compliance must be transmitted to OAL by 11-8-95 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-1-95 order including amendment of subsection (c)(3) transmitted to OAL 11-3-95 and filed 12-18-95 (Register 95, No. 51).
10. Editorial correction of History 8 (Register 97, No. 12).
11. Amendment of subsections (a) and (c)(2), new subsections (c)(3)–(c)(5), subsection renumbering, amendment of newly designated subsections (c)(6) and (c)(8), new subsections (d)–(f)(3) and amendment of Note filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).
13. Change without regulatory effect amending subsection (a) and repealing and adopting new forms 812 and 812-C filed 10-23-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 43).
14. Amendment of section and Note filed 5-25-2006; operative 5-25-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

NOTICE OF CRITICAL CASE INFORMATION - SAFETY OF PERSONS (Non-Confidential Enemies)

CDC 812 (Rev 08/01)

This non-confidential form is used to document inmates/parolees or potential inmates who should be kept separate and inmates/parolees suspected of affiliation with a prison gang or disruptive group. If an inmate/parolee is identified with a prison gang, a Notice of Critical Information - Prison Gang Identification (Form CDC 812-A) shall also be completed. A form CDC 812-B shall be completed on Disruptive Group Affiliates. Indicate "NONE" under CDC number and/or group section if there are no enemies and/or gang concerns. Refer to CCR 3378 for additional information.

NON-CONFIDENTIAL ENEMIES

CDC NUMBER	PRINT NAME	PRIMARY SUPPORTING DOCUMENTATION	DATE / CURRENT LOCATION	DATE / CURRENT LOCATION	DATE / CURRENT LOCATION	DATE / CURRENT LOCATION	DATE / CURRENT LOCATION	DATE / CURRENT LOCATION

DELETION OF PRIOR ENEMIES

CDC NUMBER	PRINT NAME	DOCUMENT DELETING ENEMY ISSUE	DELETE DATE	PRINT NAME, TITLE, INST / REGION, INITIALS OF PERSON DELETING

SUSPECTED GANG AFFILIATION

GANG	TYPE OF AFFILIATION (MEMBER / ASSOCIATE / DROPOUT)	DATE	PRIMARY SUPPORTING DOCUMENTATION
DISRUPTIVE GROUP			
PRISON GANG			

STAFF COMPLETING UPDATE

PRINT NAME AND WRITE INITIALS	TITLE	INSTITUTION / REGION	DATE

CDC NUMBER	INMATE / PAROLEE NAME	PAGE_____ OF_____

SAMPLE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

NOTICE OF CRITICAL INFORMATION - PRISON GANG IDENTIFICATION
CDC 812-A (9/92)

This nonconfidential form is used to identify primary source documents in the central file which establish an inmate/parolee's current status relative to prison gang activity/association. The identification process is initiated by completing a form CDC 812 and forwarding it to the Gang Coordinator/Investigator. The Gang Coordinator/Investigator will then complete or supervise the completion of form CDC 812-A and signify to its accuracy by printing name and signing. A CDC 128-B which delineates gang activity/association shall be completed per the CDC Operations Manual.

SUPPORTING INFORMATION

Documents shall be identified by date and type such as memorandum, probation report, parole report, incident report, police report, chrono.

A. SELF ADMISSION	B. TATTOOS AND SYMBOLS
C. WRITTEN MATERIAL	D. PHOTOGRAPHS
E. STAFF INFORMATION	F. OTHER AGENCIES
G. ASSOCIATION	H. INFORMANTS (REASON FOR RELIABILITY MUST BE SPECIFIED)

I. OFFENSES (GANG RELATED)

J. LEGAL DOCUMENTS

K. VISITORS

L. COMMUNICATIONS (MAIL / NOTES)

M. DEBRIEFING REPORTS

ADDITIONAL DOCUMENTATION OR COMMENTS

GANG COORDINATOR/INVESTIGATOR

PRINT NAME OF PRISON GANG AND CURRENT STATUS: MEMBER/ ASSOCIATE/ DROPOUT/ NONE OR SAFETY CONCERNS	PRINT NAME AND SIGN	TITLE	INSTITUTION/ REGION	DATE

CDC NUMBER	INMATE/PAROLEE'S NAME	
		PAGE_____ OF_____

SAMPLE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

NOTICE OF CRITICAL INFORMATION - DISRUPTIVE GROUP IDENTIFICATION
CDC 812-B (9/92)

This nonconfidential form is used to identify primary source documents in the central file which establish an inmate/parolee's membership in a disruptive group other than a recognized prison gang. The identification process is initiated by completing a form CDC 812 and forwarding it to the Gang Coordinator/Investigator. The Gang Coordinator/Investigator will then complete or supervise the completion of form CDC 812-B and signify to its accuracy by printing name and signing.

SUPPORTING INFORMATION

Documents shall be identified by date and type such as memorandum, probation report, parole report, incident report, police report, chrono.

A. SELF ADMISSION	B. TATTOOS AND SYMBOLS
C. WRITTEN MATERIAL	D. PHOTOGRAPHS
E. STAFF INFORMATION	F. OTHER AGENCIES
G. ASSOCIATION	H. INFORMANTS (REASON FOR RELIABILITY MUST BE SPECIFIED)
I. OFFENSES (GANG RELATED)	
J. LEGAL DOCUMENTS	
K. VISITORS	
L. COMMUNICATIONS (MAIL / NOTES)	
M. DEBRIEFING REPORTS	
ADDITIONAL DOCUMENTATION OR COMMENTS	

GANG COORDINATOR/INVESTIGATOR

PRINT NAME OF DISRUPTIVE GROUP AND CURRENT STATUS: MEMBER/ ASSOCIATE/ DROPOUT/ NONE OR SAFETY CONCERNS	PRINT NAME AND SIGN	TITLE	INSTITUTION/ REGION	DATE

CDC NUMBER	INMATE/PAROLEE'S NAME	
		PAGE_____ OF_____

SAMPLE

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS

NOTICE OF CRITICAL INFORMATION - CONFIDENTIAL ENEMIES

CDC 812-C (Rev 8/01)

CONFIDENTIAL

THIS FORM *IS NOT* FOR DISTRIBUTION TO INMATES / PAROLEES

This form shall be used to identify inmates and/or potential inmates who require separation based on confidential information. Refer to CCR 3378 for additional information.

CONFIDENTIAL ENEMIES			DATE	DATE	DATE	DATE	DATE	DATE
CDC NUMBER	PRINT NAME	PRIMARY SUPPORTING DOCUMENTATION	CURRENT LOCATION	CURRENT LOCATION	CURRENT LOCATION	CURRENT LOCATION	CURRENT LOCATION	CURRENT LOCATION

DELETION OF CONFIDENTIAL ENEMIES

CDC NUMBER	PRINT NAME	DOCUMENT DELETING ENEMY ISSUE	DELETE DATE	PRINT NAME, TITLE, INST / REGION, INITIALS OF PERSON DELETING

STAFF COMPLETING CONFIDENTIAL UPDATE

PRINT NAME AND WRITE INITIALS	TITLE	INSTITUTION / REGION	DATE

CDC NUMBER	INMATE / PAROLEE NAME	PAGE_____OF_____

SAMPLE

3378.1. Debriefing Process.

(a) Debriefing is the process by which a gang coordinator/investigator determines whether an inmate/parolee (subject) has dropped out of a gang. A subject shall be debriefed only upon his or her request, although staff may ask a subject if he or she wants to debrief. Debriefing shall entail a two-step process that includes an interview phase and an observation phase.

(b) The purpose of debriefing interview is to provide staff with information about the gang's structure, activities and affiliates. A debriefing is not for the purpose of acquiring incriminating evidence against the subject. The object of a debriefing is to learn enough about the subject and the subject's current gang to: (1) allow staff to reasonably conclude that the subject has dropped out of the gang, and (2) allow staff to reclassify the subject based upon the inmate's needs in conjunction with the security of the institution, as well as, the safety and security of staff and other inmates.

(c) SHU inmates undergoing the debriefing process shall be subject to a period of observation in a segregated housing setting with other inmates who are also undergoing the debriefing process. The period of observation shall be no greater than 12 months.

(d) Upon completion of the debriefing process, the inmate shall be housed in a facility commensurate with the inmate's safety needs. In the absence of safety needs, the inmate shall be housed in a facility consistent with his or her classification score.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin* v. *Connor* (1995) 515 U.S. 472; *Madrid* v. *Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; and *Toussaint* v. *McCarthy* (9th Cir. 1990) 926 F.2d 800.

HISTORY:

1. New section filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).

3378.2. Advisement of Rights During Debriefing.

A waiver of the right against self-incrimination is not a precondition of an inmate/parolee (subject) undergoing a debriefing since the information is provided for administrative purposes. A subject shall not be required to complete the debriefing process and the subject is free to terminate the debriefing at any time. If, during a debriefing, a subject makes a statement that tends to incriminate the subject in a crime, the gang coordinator/investigator may stop any discussion about the matter and continue on with another topic. Prior to questioning the subject about the incriminating matter, the subject must waive the right against self-incrimination. The decision by the subject to exercise the right against self-incrimination shall not affect the determination of whether the subject successfully participated in the debriefing.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin* v. *Connor* (1995) 515 U.S. 472; *Madrid* v. *Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; and *Toussaint* v. *McCarthy* (9th Cir. 1990) 926 F.2d 800.

HISTORY:

1. New section filed 8-30-99 as an emergency; operative 8-30-99 (Register 99, No. 36). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 2-8-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-30-99 order transmitted to OAL 2-7-2000 and filed 3-21-2000 (Register 2000, No. 12).

3379. Inmate Transfers.

(a) Transfer requirements.

(1) Any inmate transfer from a facility other than a reception center shall require a classification committee action and endorsement by a classification staff representative (CSR). In the cases of civil addicts transferring to community correctional facilities and illegal aliens transferring for the purpose of deportation proceedings, the Classification and Parole Representative (C&PR) may endorse such cases following the classification committee action.

(2) An inmate for whom a recall of commitment report under provisions of Penal Code Section 1170(d) is required, shall not be transferred, unless for emergency medical treatment, until the report is completed. Reception center process cases shall be excluded from this provision.

(3) Except in emergencies or for special housing, inmates shall not be transferred within 90 days of their release date, or within 90 days of a Board of Prison Terms (BPT) appearance. If a case requires transfer within the 90-day period, the appropriate BPT report shall be completed by the sending institution prior to the transfer.

(4) A warden or superintendent may temporarily suspend a scheduled inmate transfer. Such suspension shall constitute a classification action and be recorded on a chrono as provided by section 3375(a)(2) of these regulations, including the reason for the action and a recommendation for an alternative program assignment.

(5) If an inmate has not transferred within 30 days of CSR endorsement, the sending institution shall report that fact to the Chief, Classification Services who shall either direct the institution to proceed with the transfer or present the case to the next CSR for alternative action.

(6) Transfer to another state. Transfer of a California prison inmate to an out-of-state prison facility shall not occur prior to the inmate signing a CDC Form 294, Interstate Compact Placement Agreement, witnessed by the institution head or delegate.

(7) Transfer to a federal prison. Transfer of a California prison inmate to a federal prison facility shall not occur until:

(A) The inmate has been informed of the right to private consultation with an attorney their choice concerning rights and obligations pursuant to Penal Code section 2911.

(B) The warden or superintendent or delegate has witnessed the inmate's signing of a Federal Prison System Placement Agreement consent form and an acknowledgement of having been informed regarding rights and obligations.

(8) An inmate may, prior to scheduled transfer, revoke their consent to transfer to out-of-state or federal prison.

(b) Placement in level. An inmate endorsed for any level placement and transferred to an institution with several levels shall be placed in the endorsed level facility within 60 days of arrival or shall be referred to the next scheduled CSR for alternative action. A warden or superintendent may temporarily place an inmate in a facility of an institution for which the inmate has not otherwise been endorsed. Such placement shall not exceed 30 days without CSR review and approval. Reasons for such placement may include protection or medical needs of the inmate, an incomplete investigation, disciplinary action, court proceedings, or a pending transfer.

(c) Disciplinary and security factors. Prior to transfer of an inmate, the sending institution shall resolve any matters related to incomplete disciplinary punishment or establishment or establishment of a determinate period to be served in a SHU at the receiving facility. Disciplinary detention shall be completed, suspended, or commuted to time served. If a transfer related to misbehavior does not require SHU placement but the inmate is transferred to an institution of higher level than indicated by the inmate's classification score, the endorsing CSR shall establish a date for follow-up review by the receiving institution.

(d) Medical and psychiatric transfer.

(1) The sending institution shall, prior to any medical or psychiatric transfer, determine whether the inmate has enemies or might be in danger at the receiving facility, and shall:

(A) Inform staff of the receiving facility by telephone prior to the transfer regarding any precautions needed to protect the inmate.

(B) Make an alternate institutional transfer arrangement, which will not jeopardize the inmate.

(2) An inmate transferred to CMF for psychiatric treatment because of acute mental illness requiring inpatient psychiatric hospitalization or because of the recency of a major mental illness or when in partial remission of such illness, is entitled to a hearing regarding the necessity for transfer. Upon arrival at CMF, such inmate shall be served with a Notice of Transfer to California Medical Facility for Mental Health Treatment, which shall explain the inmate's rights. The inmate may sign the notice waiving his right to a hearing or if opposed to the transfer, may request a hearing.

(3) The hearing shall be held within seven days from arrival at CMF. If the hearing cannot be held within seven days, the inmate shall be informed in writing of that fact, the reason for the delay, and of an estimated date he may expect the hearing. The hearing shall consist of a classification committee review of the case and shall include the following:

(A) Determination that the inmate has received written notice of the transfer to CMF stating that the inmate has a right to a hearing and that such hearings are normally held within seven days after arrival at CMF.

(B) The information relied upon in ordering the transfer to CMF shall be disclosed to the inmate. The inmate shall be heard in person and be permitted to present evidence, including witnesses, in his behalf.

(C) One member of the classification committee shall be a psychiatrist employed by the Department of Corrections. This person shall be an independent decision maker and shall not be the inmate's treating psychiatrist at either the sending or receiving institution.

(D) Following the hearing, the independent decision maker shall inform the inmate in writing of the committee's decision and the information relied upon in arriving at the decision.

(E) The inmate may appeal the decision. A ruling on such appeal shall be returned within 20 working days.

(4) Periodic clinical progress reports on a CDC Form 128-C shall be made at least quarterly. A summary CDC Form 128-C report, classification action and CSR endorsement are required when an inmate's program category is changed.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2911, 5025, 5054, 5068, 5080 and 11191, Penal Code; and *Whitaker* v. *Rushen* (9th Cir. 1983) 720 F.2d 1132, 1135.

HISTORY:

1. New section filed 8-7-87 as an emergency; operative 8-7-87 (Register 87, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-7-87.
2. Certificate of Compliance as to 8-7-87 order transmitted to OAL 12-4-87; disapproved by OAL (Register 88, No. 16).
3. New section filed 1-4-88 as an emergency; operative 1-4-88 (Register 88, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-3-88.
4. Certificate of Compliance as to 1-4-88 order transmitted to OAL 5-3-88; disapproved by OAL (Register 88, No. 24).
5. New section filed 6-2-88 as an emergency; operative 6-2-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-30-88.
6. Certificate of Compliance including amendment transmitted to OAL 9-26-88 and filed 10-26-88 (Register 88, No. 50).
7. Editorial correction of printing errors in subsection (b), CDC Form 294 and CDC Form 802 (Register 92, No. 5).
8. Amendment of subsection (a)(1) and Note filed 1-30-96 as an emergency; operative 1-30-96 (Register 96, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-29-96 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 1-30-96 order, including further amendment of subsection (a)(1) and Note, transmitted to OAL 5-14-96 and filed 6-25-96 (Register 96, No. 26).
10. Change without regulatory effect amending subsection (c) filed 3-18-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 12).

STATE OF CALIFORNIA
CDC 294 (7/88)

DEPARTMENT OF CORRECTIONS

INTERSTATE COMPACT PLACEMENT AGREEMENT

I, _____ _____ _____ _____ _____, of my own free will and accord do hereby agree to accept transfer from an institution of the California Department of Corrections to an institution of the State of _____.

I am aware that prior to scheduled transfer I may revoke my consent to transfer.(CCR 3379)

I am aware that I may be entitled to revoke my consent and transfer to an institution within California at any time more than five (5) years after transfer. In such case, the transfer shall occur within the next 30 days.

I am aware of my right to private consultation with an attorney of my choice concerning my rights and obligations under California Penal Code Section 11191 prior to consenting to such a transfer.

I have exercised that right: Yes _____, No _____.

I waive my right to consultation with an attorney: Yes _____, No _____.

I understand that I am expected to remain in an institution within the state to which I am transferred until my release unless I am returned to California by the California Department of Corrections.

I understand that the security, treatment, training and care for me will be in keeping with the standards for such programs as administered in California.

I understand that my hearings for parole consideration and determination of sentence will be conducted on the same basis as if I were in a California institution.

Inmate's Signature ▶		Witness' Signature ▶
CDC Number	Date	Date

Distribution:

Inmate's Central File
Transporting officer (for the receiving institution)

SAMPLE

STATE OF CALIFORNIA
CDC 802 (7/88)

DEPARTMENT OF CORRECTIONS

FEDERAL PRISON SYSTEM PLACEMENT AGREEMENT

I, _____, of my own free will and accord do hereby agree to accept transfer from an institution of the California Department of Corrections to an institution of the Federal Prison System.

I am aware of my right to private consultation with an attorney of my choice concerning my rights and obligations under California Penal Code Section 2911 prior to consenting to such a transfer.

I have exercised that right: Yes _____, No _____.

I waive my right to consultation with an attorney: Yes _____, No _____.

I am aware that prior to scheduled transfer I may revoke my consent to transfer. (CCR 3379)

I understand that I am expected to remain in an institution of the Federal Prison System until discharged or paroled unless I am returned to California by the Department of Corrections.

I understand that the security, treatment, training and care for me will be in keeping with the standards for such programs as administered in California by the Department of Corrections.

I understand that my hearings for parole consideration and determination of sentence will be conducted on the same basis as if I were in a California institution.

Inmate's Signature		Witness' Signature
CDC Number	Date	Date

Distribution:

Inmate's Central File
Transporting officer (for the receiving institution)

SAMPLE

STATE OF CALIFORNIA
CDC 1011 (REV 7/88)

DEPARTMENT OF CORRECTIONS

NOTICE OF TRANSFER TO CALIFORNIA MEDICAL FACILITY
FOR MENTAL HEALTH TREATMENT

Inmate's Name:_____ Today's Date:_____
CDC Number:_____
County of Commitment:_____

You have been transferred to the California Medical Facility to receive mental health treatment. You have a right to the following: *(CCR 3379)*

A. A hearing to be held at CMF, normally within seven days after your arrival to determine whether your transfer was necessary. *(CCR 3379)*

B. Before the hearing your caseworker will help you to prepare for the hearing and will be with you at the hearing. This assistance may include gathering all requested and available documents related to your transfer.

C. The hearing will be conducted by a classification committee, of which one member shall be an "independent decisionmaker" a psychiatrist retained or employed by the Department of Corrections. The independent decisionmaker will not be the doctor who recommended your transfer or your treating psychiatrist at CMF. *(CCR 3379)*

D. At the hearing, the information which caused your physician to order the transfer will be provided to you. You will be heard in person and can present documentary evidence on your behalf. If the chairperson at the hearing feels that a decision cannot be made without additional information, the hearing may be continued. If it is continued, you will be given the reasons in writing. *(CCR 3379)*

E. At the hearing, you may present either oral or written testimony of witnesses chosen by you. If any of your witnesses are not allowed to appear for good cause, you will be given the reasons in writing. *(CCR 3379)*

F. After the hearing, the independent decisionmaker will inform you in writing of the decision and the reasons for the decision. *(CCR 3379)*

G. If you disagree with the findings you may appeal the decision to the Director of Corrections for investigation to determine whether the evidence supporting the decision was sufficient. If you decide to appeal, it must be filed within 30 calendar days of the hearing. You will be provided with a ruling within 20 working days after the filing of your appeal. *(CCR 3379)*

I have explained this form and the above stated rights to _____.
(Inmate's Name)

Dated:_____ Signed:_____

INMATE ACKNOWLEDGEMENT OF NOTICE AND RIGHTS

I have read this form and understood my rights.

Dated:_____ Signed:_____

I hereby agree to my placement at the California Medical Facility and waive the above stated rights.

Dated:_____ Signed:_____

Distribution:
Hospital Chart
Medical Record
Unit File

SAMPLE

SUBCHAPTER 5. PERSONNEL

Article 1. Wardens, Superintendents, Parole Region Administrators

3380. Chief Executive Officer.

(a) The warden or superintendent of an institution of the department is the chief executive officer of that institution, and is responsible for the custody, treatment, training and discipline of all inmates under his or her charge.

(b) Parole region administrators are the chief executive officer of their respective parole regions, and are responsible for the supervision of all parolees and furloughees assigned to the region, and to the districts, units and community correctional centers under the region's jurisdiction.

(c) Subject to the approval of the Director of Corrections, wardens, superintendents and parole region administrators will establish such operational plans and procedures as are required by the director for implementation of regulations and as may otherwise be required for their respective operations. Such procedures will apply only to the inmates, parolees and personnel under the administrator.

(d) Copies of institution and parole region operational plans and procedures requiring the director's review and approval will be submitted to central office on a scheduled basis. A copy of each currently approved plan will be maintained in the department's policy documentation files. Operational procedures which do not require the director's review and approval do not need to be submitted to central office unless requested. In compliance with the Public Records Act, departmental regulations and procedures, as well as institution and parole region operational plans and procedures of a nonconfidential nature, will be made available for public examination at any administrative office of the department where such information is maintained.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code and Section 6253, Government Code.

HISTORY:

1. Amendment of subsection (d) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).

3381. Absence.

Wardens, superintendents and parole region administrators will obtain the director's approval before voluntarily absenting themselves from duty for more than one regular state workday. Each warden, superintendent and parole region administrator will submit for the director's approval the names and titles of three top-ranking subordinates who will serve in the administrator's place during temporary absences. The persons named will be designated as first, second and third alternate, to serve as acting warden, superintendent or region administrator. While so acting, the person designated has the same authority and power as the warden, superintendent or region administrator.

Comment: Former DP-5102, absence from institution.

3382. Incident Reports.

(a) Any event or activity occurring within the jurisdiction of institutions or parole regions which may be of immediate interest or concern to the department, or of special interest to other governmental agencies or the news media will be immediately reported by institution and region staff by telephone to the office of the director or to the departmental duty officer. Wardens and superintendents will submit a written report of the incident to the director within 72 hours of the verbal notice. Parole regions will submit written reports as instructed by the Deputy Director, Parole and Community Services Division.

(b) Incidents to be reported include, but are not limited to all serious crimes such as homicide or severe assaults upon or by inmates, parolees or employees, escapes, and sensational activities or events such as riots, strikes, demonstrations, disturbances, or disruption of essential services, and significant damage or destruction of state property.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).

3383. State of Emergency.

(a) A state of emergency shall exist when the institution head or Regional Parole Administrator/Assistant Deputy Director, Parole and Community Services Division (P&CSD), temporarily suspends any nonessential operation, procedure, service or function, and the normal time limits or schedules for such activity in order to prevent, contain, or control a disturbance.

(b) Approval of the director or director's designee is required when:

(1) A lockdown of all housing units/sub-facilities within a facility's security perimeter is to exceed 24 hours.

(2) A lockdown of fewer than all housing units/sub-facilities within a facility's security perimeter is to exceed 72 hours.

(3) The suspension of a facility's major program or operation is to exceed 72 hours; e.g., an academic or vocational program, visiting program, yard operation, or dining room operation.

(c) During a state of emergency the institution head or Regional Parole Administrator/Assistant Deputy Director, P&CSD, may authorize the postponement of nonessential administrative decisions, actions, and the normal time requirements for such decisions and actions as deemed necessary because of the emergency. This may include, but is not limited to, classification committee hearings, disciplinary proceedings, and the review and action on appeals.

(d) During a state of emergency, the cause and effect shall be constantly reviewed and evaluated by the institution head or Regional Parole Administrator/Assistant Deputy Director, P&CSD through appropriate staff. The facility's affected areas, programs, and operations shall be returned to normal as soon as the institution head or Regional Parole Administrator/Assistant Deputy Director, P&CSD, determines that it is safe to do so. Upon termination of a state of emergency, the normal schedules and time frames for administrative decisions and actions pertaining to affected inmates will resume.

NOTE: Authority cited: Section 11152, Government Code; Section 5058, Penal Code. Reference: Section 5054, Penal Code.

HISTORY:

1. New section filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Change without regulatory effect amending section and adding Note filed 3-21-95 pursuant to Section 100, Title 1, California Code of Regulations (Register 95, No. 12).
3. Amendment filed 10-16-97; operative 11-15-97 (Register 97, No. 42).

3384. Administrative Visitation.

Wardens and superintendents or a designated staff member acting in that capacity, the chief custodial officer, the chief medical officer, and other administrative and management staff, will visit institution living and activity areas at least weekly.

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

HISTORY:

1. New section filed 4-18-80; effective thirtieth day thereafter (Register 80, No. 16).

Article 2. Employees

3390. Background Investigations.

(a) Background investigations on applicants for non-peace officer classifications shall be limited to applicants applying for the following classifications:

(1) Dentist.
(2) Chief dentist.
(3) Staff psychiatrist.
(4) Senior psychiatrist.
(5) Chief psychiatrist, correctional facility.
(6) Staff psychologist (counseling or clinical).
(7) Senior psychologist.
(8) Chief psychologist.
(9) Physician and surgeon.
(10) Chief physician and surgeon.
(11) Chief medical officer, correctional institution.
(12) Assistant superintendent, psychiatric services, correctional facility.
(13) Deputy superintendent, clinical services, correctional facility.
(14) Chief, medical services, correctional program.
(15) Correctional case records (complete series).

(b) Background investigation clearances are not required prior to appointment to classifications in (a) above.

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

HISTORY:
1. New section filed 11-30-93; operative 12-30-93 (Register 93, No. 49). For prior history, see Register 85, No. 26).

3391. Employee Conduct.

(a) Employees shall be alert, courteous, and professional in their dealings with inmates, parolees, fellow employees, visitors and members of the public. Inmates and parolees shall be addressed by their proper names, and never by derogatory or slang reference. Prison numbers shall be used only with names to summon inmates via public address systems. Employees shall not use indecent, abusive, profane, or otherwise improper language while on duty. Irresponsible or unethical conduct or conduct reflecting discredit on themselves or the department, either on or off duty, shall be avoided by all employees.

(b) An allegation by a non-inmate of misconduct by a departmental peace officer as defined in section 3291(b) is a citizen's complaint pursuant to Penal Code section 832.5. Citizen's complaints alleging misconduct of a departmental peace officer shall be filed within twelve months of the alleged misconduct.

(c) Persons other than an inmate, parolee or staff who allege misconduct of a departmental peace officer shall submit a written complaint to the institution head or parole administrator of the area in which the peace officer is employed.

(d) Citizens filing complaints alleging misconduct of a departmental peace officer employed by this department are required to read and sign the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 148.6, 832.5, 5054 and 6250–6253, Penal Code, *Chaker* v. *Crogan* (9th Cir 2005) 428 F. 3d 1215.

HISTORY:
1. Amendment filed 2-8-88; operative 3-9-88 (Register 88, No.7).
2. Editorial correction of History 1 (Register 96, No. 52).
3. Amendment of section heading, amendment adding new subsection (a) designator, renumbering and amendment of old subsections 3084.7(h)(2) and (h)(3) to new subsection 3391(b) and (c), new subsection (d), and amendment of Note filed 12-23-96 as an emergency; Operative 12-23-96 (Register 96, No. 52). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 6-2-97, or emergency language will be repealed by operation of law on the following day.
4. Amendment of section heading, amendment adding new subsection (a) designator, renumbering and amendment of old subsections 3084.7(h)(2) and (h)(3) to new subsections 3391(b) and (c), new subsection (d), and amendment of Note refilled 5-29-97 as an emergency; operative 6-2-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-30-97 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of History 4 (Register 97, No. 24).
6. Certificate of Compliance as to 5-29-97 order, including amendment of subsections (b) and (d), transmitted to OAL 9-25-97 and filed 11-7-97 (Register 97, No. 45).
7. Amendment of subsection (d) and amendment of Note filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 4-12-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 11-3-2006 order transmitted to OAL 3-12-2007 and filed 4-19-2007 (Register 2007, No. 16).

3392. Punctuality.

Employees must report for duty promptly at the time directed and not leave work assignments before completion of their scheduled workday or tour of duty, except with their supervisor's permission. If for any reason an employee is unable to report for duty, the employee must notify his or her supervisor at the earliest possible moment.

Comment: Former DR-5203, punctuality of employees.

3393. Uniforms, Badges, and Insignia.

(a) All peace officer personnel shall wear uniforms and insignia as prescribed by the director, unless specifically excepted by the warden, superintendent, or regional parole administrator. Personnel shall not wear a department uniform into any bar, tavern, gambling hall or nightclub, except in the performance of assigned duties.

(b) Uniformed peace officer personnel shall wear the official department badge as a standard item of uniform attire. Exceptions may be authorized by the warden, superintendent, regional parole administrator, or department division head to whom such employees report. All personnel appointed to positions designated as peace officers in Section 3291 are authorized to possess and carry an official Department of Corrections badge. It is unlawful for any person, including a department employee who is not a peace officer, to wear, exhibit or use the department badge or a facsimile of the badge without specific authority to do so.

(c) All uniformed peace officer personnel shall wear a clearly displayed nameplate as a standard item of uniform attire. Any employees having contact with inmates and the general public may also be required to wear a nameplate while on duty, as determined by the warden, superintendent, division head, or parole regional administrator to whom the employee reports.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 830.10, Penal Code.

HISTORY:
1. Amendment filed 7-29-76; effective thirtieth day thereafter (Register 76, No. 31).
2. Repealer of subsection (d) and new subsections (d), (e) and (f) filed 3-22-78; effective thirtieth day thereafter (Register 78, No. 12).

3. Amendment of subsection (d), repealer of subsection (e) and amendment and renumbering of subsection (f) to subsection (e) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
4. Amendment filed 2-16-88; operative 3-17-88 (Register 88, No. 9).
5. Editorial correction of printing errors in subsections (b) and (c) (Register 92, No. 5).

3394. Distractions.

Employees assigned to security post positions or to direct supervision and control of inmates or parolees will not read, listen to a private radio, or engage in any distracting amusement or activity while on assignment except such authorized reading as may be required in the proper performance of their assigned duties.

Comment: Former DR-5205, reading or distraction while on duty.

3395. Alertness.

Employees must not sleep or be less than alert and in full possession of all faculties while on duty.

Comment: Former DR-5206, sleeping while on duty.

3396. Address and Telephone.

Employees must promptly report any change in their address or telephone number to their supervisor and to the personnel office. If an employee does not have a telephone, the employee must furnish his or her supervisor and the personnel office with information on how the employee can be promptly reached.

Comment: Former DR-5207, change of address or telephone.

3397. Emergencies.

Regardless of an employee's class of service, in an emergency any employee must perform any service, including custodial functions, if so directed by the warden, superintendent or regional administrator or his or her delegate. At any time an employee is contacted by telephone or is otherwise informed of an emergency situation at the institution or facility to which they are assigned, the employee must report without delay to the officer-in-charge.

Comment: Former DR-5208, duty in an emergency.

3398. Visiting.

Employees must not receive personal visits while on duty except with the permission of the employee's supervisor.

Comment: Former DR-5209, visiting of employees.

3399. Transactions.

Employees shall not directly or indirectly trade, barter, lend or otherwise engage in any other personal transactions with any inmate, parolee or person known by the employee to be a relative of an inmate or parolee. Employees shall not, directly or indirectly give to or receive from any inmate, parolee or person known by the employee to be a relative of an inmate or parolee, anything in the nature of a tip, gift or promise of a gift.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2541 and 5054, Penal Code.

HISTORY:

1. Amendment filed 4-10-89; operative 5-10-89 (Register 89, No. 15).
2. Editorial correction of printing errors (Register 92, No. 5).

3400. Familiarity.

Employees must not engage in undue familiarity with inmates, parolees, or the family and friends of inmates or parolees. Whenever there is reason for an employee to have personal contact or discussions with an inmate or parolee or the family and friends of inmates and parolees, the employee must maintain a helpful but professional attitude and demeanor. Employees must not discuss their personal affairs with any inmate or parolee.

Comment: Former DR-5211, undue familiarity.

3401. Employee and Inmate/Parolee Relations.

(a) Except as provided in (e) below, employees shall not take, deliver or otherwise transmit, either to or from any inmate or member of an inmate's family; any verbal or written message, document, item, article or substance.

(b) Except as provided in (e) below, employees shall not contact, correspond or otherwise communicate with any inmate, parolees or member of an inmate's or parolee's family.

(c) If an employee is contacted by any inmate, parolee or a member of an inmate's or parolee's family, other than under circumstances specified in (e) below, the employee shall immediately notify, in writing, the employee's institution head or deputy/assistant director.

(d) Any employee asked, coerced or otherwise contacted by any person to transmit, take or relay any message, item or substance, either to or from, any inmate, parolee or member of an inmate's or parolee's family, by other than approved means or circumstances, shall immediately notify, in writing, their institution head or deputy/assistant director.

(e) Exceptions to the above prohibitions are as follows:

(1) In the execution of their assigned duties, employees shall issue, or receive from inmates any mail, packages, supplies and other items due or permitted them according to department policy and local procedures.

(2) In the execution of their assigned duties, employees shall interact with any inmate, parolee or member of an inmate or parolee's family as necessary.

(3) While off-duty, and only in accordance with this regulation, departmental employees may conduct relationships with any inmate, parolee or member of an inmate's or parolee's family who is either the employee's immediate family member, as defined in section 3000, or the employee's aunt, uncle, niece, nephew, or first cousin.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section heading and section, including renumbering and amendment of former section 3403 to new subsections (b) and (c), and new Note filed 9-13-96 as an emergency; operative 9-13-96. A Certificate of Compliance must be transmitted to OAL by 2-24-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-96 order transmitted to OAL 11-22-96 and filed 1-6-97 (Register 97, No. 2).

3401.5. Employee Sexual Misconduct.

(a) For the purposes of this section, sexual misconduct means any sexual behavior by a departmental employee, volunteer, agent or individual working on behalf of the Department of Corrections, which involves or is directed toward an inmate or parolee. The legal concept of "consent" does not exist between departmental staff and inmates/parolees; any sexual behavior between them constitutes sexual misconduct and shall subject the employee to disciplinary action and/or to prosecution under the law. Sexual misconduct includes, but is not limited to:

(1) Influencing or offering to influence an inmate's/parolee's safety, custody, housing, privileges, parole conditions or programming, or offering goods or services, in exchange for sexual favors; or

(2) Threatening an inmate's/parolee's safety, custody, housing, privileges, work detail, parole conditions or programming because the inmate/parolee has refused to engage in sexual behavior; or

(3) Engaging in sexual act(s) or contact, including:

(A) Sexual intercourse; or

(B) Sodomy; or

(C) Oral Copulation; or

(D) Penetration of genital or anal openings by a foreign object, substance, instrument or device for the purpose of sexual arousal, gratification, or manipulation; or

(E) Rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with knowledge of another, for the purpose of sexual arousal, gratification, or manipulation; or

(F) Invasion of privacy, beyond that reasonably necessary to maintain safety and security; or disrespectful, unduly familiar, or sexually threatening comments directed to, or within the hearing of, an inmate/parolee.

(b) Penalties. All allegations of sexual misconduct shall be subject to investigation, which may lead to disciplinary action and/or criminal prosecution.

(c) Reporting Requirements. Any employee who observes, or who receives information from any source concerning sexual misconduct, shall immediately report the information or incident directly to the institution head, unit supervisor, or highest-ranking official on duty, who shall then immediately notify the Office of Internal Affairs. Failure to accurately and promptly report any incident, information or facts which would lead a reasonable person to believe sexual misconduct has occurred may subject the employee who failed to report it to disciplinary action.

(d) Confidentiality. Alleged victims who report criminal sexual misconduct falling into one of the Penal Code sections set forth in Government Code 6254(f)(2) shall be advised that their identity may be kept confidential pursuant to Penal Code Section 293.5, upon their request.

(e) Retaliation Against Employees. Retaliatory measures against employees who report incidents of sexual misconduct shall not be tolerated and shall result in disciplinary action and/or criminal prosecution. Such retaliatory measures include, but are not limited to, unwarranted denials of promotions, merit salary increases, training opportunities, or requested transfers; involuntary transfer to another location/position as a means of punishment; or unsubstantiated poor performance reports.

(f) Retaliation Against Inmates/Parolees. Retaliatory measures against inmates/parolees who report incidents of sexual misconduct shall not be tolerated and shall result in disciplinary action and/or criminal prosecution. Such retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent an inmate/parolee from reporting sexual misconduct.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 289.6, 293.5, and 5054, Penal Code; section 6254, Government Code.

HISTORY:

1. New section filed 6-21-2000 as an emergency; operative 6-21-2000 (Register 2000, No. 25). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 11-28-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-21-2000 order transmitted to OAL 10-5-2000 and filed 11-6-2000 (Register 2000, No. 45).

3402. Central File.

(a) Within the scope of their assigned duties, employees are encouraged to consult an inmate's central file for assistance in better understanding the inmate. The contents of the inmate's file is private and privileged information. It will not be discussed with other persons except as is necessary for professional reasons, and will not be the subject of banter between employees or between employees and the inmate to whom it pertains or with other inmates. Information in an inmate's central file may be confidential by law or for reasons relating to institution security and the safety of persons. Such confidential or restricted information must not be disclosed to persons who are not authorized by law and departmental policy and procedures to receive such information.

(b) The central file of a parolee or an inmate may not be removed from the parole region office or an institution without the prior knowledge and approval of the supervising records officer who is responsible for the control and maintenance of the file. Temporary transfer of a central file to another agency for any reason also requires the prior approval of the supervising records officer.

HISTORY:

1. Amendment filed 2-24-77; effective thirtieth day thereafter (Register 77, No. 9).

3403. Communications.

Repealed.

HISTORY:

1. Renumbering and amendment of former section 3403 to new subsections 3401(b) and 3401(c), and repealer of Comment filed 9-13-96 as an emergency; operative 9-13-96. A Certificate of Compliance must be transmitted to OAL by 2-24-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-96 order transmitted to OAL 11-22-96 and filed 1-6-97 (Register 97, No. 2).

3404. Hiring of Ex-Offenders.

(a) The director's written approval is required for appointment of an ex-offender.

(b) Ex-offenders shall not, without the director's written approval, be assigned to areas which enable them to access:

(1) Employee records.

(2) Inmate personal or medical information.

(c) An ex-offender shall not be appointed to any position requiring a background clearance until such clearance is received.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Former section 3404 renumbered to section 3404.1 and new section filed 11-30-93; operative 12-30-93 (Register 93, No. 49).

3404.1. Approval of Ex-Offender Employee Transactions.

Relationships involving business and financial transactions between ex-offender employees and other employees shall require the advance approval of each person's hiring authority and also of the regional parole administrator with jurisdiction over any employee on parole.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3404 to new section 3404.1 filed 11-30-93; operative 12-30-93 (Register 93, No. 49).

3405. Legal Assistance to Inmates and Parolees.

Employees must not assist an inmate or parolee in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional administrator. Employees should help inmates and parolees to find qualified assistance for their legal problems.

Comment: Former DR-5216, petitions and writs.

3406. Committed Relatives and Friends of Employees.

If an employee becomes aware that any relative or person with whom the employee has or has had either a personal or business relationship, has been committed or transferred to the jurisdiction of the department, the employee shall notify in writing, employee's institution head or deputy/assistant director.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Amendment of section heading and section, repealer of Comment, and new Note filed 9-13-96 as an emergency; operative 9-13-96. A Certificate of Compliance must be transmitted to OAL by 2-24-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-96 order transmitted to OAL 11-22-96 and filed 1-6-97 (Register 97, No. 2).

3407. State Supplies.

Employees may not consume or use food or supplies purchased or produced for an inmate or parolee's use, except as required by the employee's assigned duties or as specifically approved by the warden or superintendent or regional administrator.

Comment: Former DR-5218, use of state supplies.

3408. Vehicles.

Employees must use state vehicles for official business only and as specifically authorized by the warden, superintendent or regional administrator. Employees must not allow an inmate to drive a vehicle on a public road, except in extreme emergency, and must report such instance to the employee's supervisor immediately following the emergency.

Comment: Former DR-5219, use of vehicles.

3409. Gratuities.

Employees must not solicit, accept or receive directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the state.

Comment: Former DR-5220, gifts or gratuities.

3410. Intoxicants and Drugs.

(a) Employees must not come upon the grounds of an institution or community correctional facility or otherwise report for duty under the influence of intoxicants or drugs. Use of alcohol or drugs to the extent that it interferes with job performance is grounds for dismissal from service.

(b) It is the duty of every employee to promptly report to the warden, superintendent, or regional administrator the presence of any person, including an employee on duty, in any correctional facility who is or appears to be under the influence of intoxicants or drugs.

(c) Employees must not bring any kind of alcoholic beverage or any kind of drugs upon the grounds of an institution, community correctional center or camp unless specifically authorized to do so by the warden, superintendent or regional administrator. Such authorization may be given for medical or religious sacramental purposes, and for possession by employees who live in state-owned residences outside the security area for their personal use within their assigned residences.

(d) Any employee obtaining for, or delivering to an inmate or parolee any alcoholic preparations of any kind, or a drug of any type, except as specifically authorized by the warden, superintendent or regional administrator, will be subject to dismissal from service and to prosecution by the district attorney.

Comment: Former DR-5221, use of intoxicants or drugs and DR-5222, bringing intoxicants or drugs on institution grounds.

3411. Reporting of Arrest or Conviction, Change in Weapons or Driving Status.

If an employee is arrested or convicted of any violations of law, the employee must promptly notify the institution head or deputy/assistant director of that fact. Misconduct, which impairs an employee's ability to do his or her job, or affects or involves the department may be cause for disciplinary action. Suspension, revocation, or restrictions to an employee's driving privilege, which prohibit the employee from performing any of their job duties, shall be reported to the institution head or deputy/assistant deputy director. An employee shall also report any change in eligibility to own, possess and have custody/control of any firearm or other weapon authorized by the department.

NOTE: Authority cited: 5058, Penal Code. Reference: section 5054, Penal Code; Sections 921, 922 and 926, Title 18, United States Code.

HISTORY:

1. Amendment of section heading and section and new Note filed 12-10-98; operative 1-9-99 (Register 98, No. 50).

3412. Personal Firearms.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:

1. Repealer filed 9-24-81; effective thirtieth day thereafter (Register 81, No. 39).

3413. Incompatible Activity.

(a) Employees of the department shall not engage in any other employment or activity inconsistent or incompatible with employment by the department. Conduct deemed to fall in such categories includes, but is not limited to the following:

(1) Using the prestige or influence of the state or the department for private gain or advantage.

(2) Employment or participation in any activity of an illegal nature.

(3) Any employment or other activity which will prevent the employee from doing his or her job as an employee of the department in an efficient and capable manner, or represents a potential conflict of interest or the appearance of a conflict of interest with his or her job.

(4) Employment which will prevent a prompt response to a call to report to duty in an emergency or when otherwise required to be present by his or her supervisor or the warden or superintendent.

(5) Using for private gain the time, facilities, equipment or supplies of the state.

(6) Using workgroup computer technologies to do any of the following:

(A) Publish, display, or transmit information that:

1. Violates or infringes on the rights of other persons, including the right of privacy.

2. Contains defamatory, intentionally false, obscene, pornographic, profane, sexually harassing, threatening, racially offensive, or other unlawfully discriminatory material.

3. Encourages the use of controlled substances.

(B) Conduct activities not related to the mission or work tasks of the department.

(C) Solicit the performance of activities prohibited by law.

(D) Transmit material, information, or software in violation of departmental policies, or local, State, or Federal Law.

(E) Conduct electioneering or engage in political activities.

(F) Engage in non-government related fund raising or public relations activities.

(G) Conduct personal business activities or activities for personal monetary gain.

(H) Purchase or sell unauthorized goods or services.

(7) Providing confidential information to persons to whom issuance of such information has not been authorized, or using such information for private gain or advantage.

(8) Receiving or accepting money or any other consideration from anyone other than the state for performance of an act which the employee would be required or expected to render in the regular course or hours of his or her employment, or as part of his or her duties as a state employee.

(9) Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value, from anyone who is doing or is seeking to do business of any kind with the state or whose activities are regulated or controlled in anyway by the state, under circumstances from which it reasonably could be inferred that the gift was intended as a reward or for the purpose of influencing any official action on the employee's part.

(10) Consulting or testifying as a specialist or an expert witness, based on expertise gained in the course of their duties, in any administrative, civil, or criminal action without having given reasonable notice, as defined in section 3413(a)(10)(A), to the chief deputy general counsel of the office of legal affairs.

(A) An employee who is contacted by a fellow employee and/or their representative and/or attorney regarding ongoing or anticipated administrative, civil, or criminal proceedings for the purpose of eliciting expert testimony, as defined in Evidence Code section 720, shall, within one business day, notify in writing the chief deputy general counsel of the office of legal affairs. The written notification shall include all relevant information concerning the contact and a synopsis of their anticipated testimony. The employee whose testimony is sought shall also forward any subpoena served upon them within one business day of service.

(B) The chief deputy general counsel or designee retains the discretion to seek to quash the subpoena on any substantive or procedural grounds before the judicial body through whose authority the subpoena was issued.

(C) This subsection shall not apply when an employee has been requested to testify regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties or when an employee has been requested to testify as an expert witness by the department.

(b) Before engaging in any outside employment, activity or enterprise, including self-employment, the employee must submit a statement to his or her division administrator or to the warden or superintendent, naming the prospective employer, if any, the employer's address and phone number, and an outline of the proposed duties or activities. This must be in sufficient detail to enable the division administrator or the warden or superintendent to determine whether the proposed activity falls in the prohibited class. The division administrator or the warden or superintendent must notify the employee of findings.

(c) Violation of these provisions may result in disciplinary actions up to and including termination of employment with the department or civil action. Criminal prosecution may result from conduct, which violates Penal Code section 502.

NOTE: Authority Cited: section 5058, Penal Code. Reference: section 19572, Government Code; section 5054, Penal Code.

HISTORY:

1. New subsections (a)(7)–(a)(7)(H), subsection renumbering, new subsection (c), repealer of Comment, and new Note filed 2-7-97 as an emergency; operative 2-7-97 (Register 97, No. 6). Pursuant to Penal Code section 50598(e), a Certificate of Compliance must be transmitted to OAL by 7-17-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-7-97 order transmitted to OAL 5-7-97 and filed 6-16-97 (Register 97, No. 25).
3. New subsection (a)(11) filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
4. Amendment filed 12-19-2006; operative 12-19-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 51).

3413.1. Compensation for Witnesses

(a) Pursuant to Government Code section 68097.2(a), any state employee who is obliged by a subpoena to attend as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter, event, or transaction which they have expertise gained in the course of their duties, shall receive the salary or other compensation to which they are normally entitled from the department during the time the employee travels to and from the place where the court or other tribunal is located and while they are required to remain at that place pursuant to the subpoena. The employee shall also receive from the department the actual necessary and reasonable traveling expenses incurred in complying with the subpoena.

(b) Pursuant to Government Code section 68087.2(b), the department shall require:

(1) The amount of one hundred fifty dollars ($150), to accompany the subpoena upon delivery to the person accepting the subpoena for each day that the state employee is required to remain in attendance pursuant to the subpoena. This amount shall be in the form of a check or money order made payable to the California Department of Corrections and Rehabilitation.

(2) The party at whose request the subpoena is issued to reimburse the department for the full cost incurred in paying the state employee their salary or other compensation and traveling expenses for each day that the employee is required to remain in attendance pursuant to the subpoena.

(c) Any employee who meets the requirements of subsection (a) shall submit to their immediate supervisor an itemized travel expense claim within two business days following his or her testimony.

(d) Any employee who is subpoenaed to testify as to what they witnessed, not for their expertise gained in the course of their employment with the department and received witness fees pursuant to Government Code section 68093, shall relinquish those fees to the department if the employee has been on pay status during the duration of their testimony.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 19572, 68097.1, 68097.2(a) and (b), and 68093, Government Code; Section 5054, Penal Code; Title 2, Division 5, Section 18674; and *Fox* v. *State Personnel Board* (1996) 49 Cal.App.4th 1034.

HISTORY:

1. New section filed 12-19-2006; operative 12-19-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 51).

3414. Identification Card.

Every employee will be issued a departmental identification card. Employees must, while on duty, carry such card upon their person and produce the card upon request. An employee must promptly report the loss of his or her identification card to the warden or superintendent or regional administrator.

Comment: Former DR-5226, employee identification card.

3415. Employees of Other Agencies.

Persons who are not employed by the Department of Corrections, but who are assigned to or engaged in work at any department facility must observe all rules, regulations and laws governing the conduct of employees at that facility. Failure to do so may lead to exclusion from department facilities.

Comment: Former DR-5227, employees of other agencies.

3416. Conflict of Interest Code.

NOTE: Authority cited: Sections 87300 and 87302, Government Code; and Section 5058, Penal Code. Reference: Section 87300 and 87302, Government Code; and Section 5054, Penal Code.

HISTORY:

1. New section filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34). For prior history, see Register 77, No. 27.
2. Repealer and new section (including Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).
3. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
4. New section filed 3-31-87; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 3-9-87 (Register 87, No. 14).
5. Editorial correction of printing errors in Appendices A and B (Register 92, No. 5).
6. Repealer of section and appendices A and B filed 7-12-2006; operative 8-11-2006. Approved by Fair Political Practices Commission 5-24-2006 (Register 2006, No. 28).

Article 3. Employee Services

3420. General Policy.

The only services to be supplied to employees are those officially established by the warden or superintendent and equally available to all employees.

Comment: Former DP-5301, policy, general.

3421. Employee Associations.

HISTORY:

1. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

3422. Institution Services.

Subject to the limitations of the law, institutions of the department may furnish to employees, for the convenience of the state, the following services. These services are rendered at the employee's own risk. The institution and the department cannot assume any liability for loss, damage, or destruction of the employee's property:

(a) House and room rentals.

(b) Electricity, water, gas and ice, for employees living on institutional grounds.

(c) Minor household repairs to furniture and appliances.

(d) Firewood from salvage operations only.

(e) Meals at employees' dining rooms.

(f) Laundry and dry cleaning.

(g) Shoe and saddle repair.

(h) Barber shop services.

(i) Beauty shop services.

Comment: Former DP-5303, services furnished by institutions.

3423. Operational Plans.

Subject to all applicable law and the approval of the director, wardens, superintendents and regional administrators will establish procedures to govern the operation and use of such services as are made available to employees. Institutional operational plans may provide for services such as laundry, dry cleaning and shoe repair for employees and for dependent members of the employee's family who reside with the employee. However, no service will be provided to nonemployees, which requires their physical presence, except that, when accompanied by an employee, nonemployees may use the services of the employees' dining room and snack bar.

Comment: Former DP-5304, institution regulations to be established for employee services.

3424. State Products.

The direct sale or disposal to an employee of any article, materials, or supplies owned, produced, or manufactured by the department is prohibited except where specifically authorized by law.

Comment: Former DP-5305, sale of institution products.

3425. Gifts, Tips.

No gift, tip or reward will be offered by an employee or be accepted for or by an inmate.

Comment: Former DP-5036, tips, gifts, or rewards.

3426. Employee Early Intervention Program.

(a) The Early Intervention Program (EIP) is a voluntary employee benefit available to all departmental employees, who have sustained an industrial injury/illness. The EIP is designed to provide employees with information regarding the assessment and processing of qualified industrial injury/illness claims, as referenced in subdivision (b), and the available choices regarding benefit options and compensability. The Office of Environmental Health and Safety (OEHS), within the Department, shall administer the EIP.

(b) All employees who have sustained the following qualified injury/illness shall be eligible for an Early Intervention Counselor (EIC) visit, as referenced in (d)(4):

(1) Psychological stress;

(2) Stress-related injuries, including but not limited to, hypertension, cardiac, gastrointestinal; or

(3) Trauma-induced stress, including but not limited to, assault, blood borne pathogen exposure or infectious disease exposure.

(c) All employees with a claimed injury/illness who have an actual or anticipated long-term disability of thirty (30) days or more, or who have an undeterminable or disputed injury shall be eligible for EIC.

(d) Definitions.

(1) Adjusting Agency, means the entity, under a State of California Interagency Agreement with the State Department of Personnel Administration that administers workers' compensations claims on behalf of the Department.

(2) Early Intervention Selection Committee (EISC) means a local committee at the institution(s) comprised of the Director's representatives in a number equal to the number of Employee Representative Associations who bargain with the Department on behalf of employee bargaining units, one representative from each of those Associations, and a non-voting chairperson.

(3) Agreed Medical Panel Doctor (AMPD), means a Physician as defined in Labor Code 3209.3, or a Physician holding a valid license to practice medicine in an adjoining state when services will be rendered in that state, who is authorized by the EISC to provide evaluations and treatment within the scope of the EIP.

(4) Early Intervention Counselor (EIC), means an independent, non-departmental employee, authorized by the EISC, who provides information to qualified injured/ill employees regarding workers' compensation and other employee entitlement benefit options.

(5) Return-to-Work Coordinator (RTWC) means a State employee who is the Department's local representative, entrusted with the responsibility of coordinating the EIP at the local level. The RTWC shall be the chairperson of the EISC.

(e) The EIP shall:

(1) Provide for a qualified injured/ill employee to receive an initial EIC visit, regarding workers' compensation benefit options and other entitlement benefits when referred by the RTWC.

(2) Provide for a qualified injured/ill employee to be referred to an AMPD by the RTWC regarding disputed compensability claims.

(3) Ensure all employee medical and personnel records are kept confidential at all times.

(f) The EISC shall:

(1) Review resumes of qualifications, as referenced in (g)(1), and authorize individuals to provide EIC services within the scope of the EIP for a term of three (3) years;

(2) Review and investigate any verbal or written complaint filed against an EIC, within 120 days of receipt;

(3) Issue a written statement within 30 days of completion of the review to the complainant if complaint is found to be invalid;

(4) Issue a written Notice of Decision via Certified U.S. Mail within 30 days of completion of the review if the complaint is found to have merit. The Notice shall include:

(A) A written statement of charges addressing complaint; and

(B) A written statement informing the EIC of his or her right to appeal within 30 days of mailing of the Notice of Decision; and

(C) A written corrective action order. For purposes of this section, a corrective action order may include, but is not limited to, a written notice to the EIC to provide an explanation of inaccurate EIP information provided to the employee; or a written notice to correct any inaccurate billing statement; or a written notice to cease any unprofessional conduct during the course of an EIC visit. The written corrective action order shall include a time frame during which the matter must be corrected, and a means by which the EIC must notify the EISC of the required corrections; or

(D) A written statement of Intent to Revoke Authorization to provide EIC services.

(5) Conduct a meeting to hear an appeal within 60 days of a request by the EIC, giving the EIC an opportunity to present a defense to any complaint prior to revoking the EIC's authority to provide EIP services.

(6) Make a final determination within 14 days of the appeal, either sustaining, modifying or revoking the Decision after an appeal is heard. The authorization of an EIC to provide services shall be revoked if it is determined that the following has occurred:

(A) Upon investigation of a serious complaint filed against the EIC, the complaint is found to have merit by the EISC. For the purposes of this section, a serious complaint means an alleged crime or act performed by an EIC, which includes but not limited to those involving theft, fraud, fiscal dishonesty, or sexual misconduct.

(B) The EIC fails to notify the EISC by written statement certifying charges set forth in the corrective action order have been corrected;

(C) The EISC determines inadequate EIC performance due to neglect of duty, misconduct, or illegal or unprofessional conduct.

(D) The EIC fails to appeal the complaint within the 30-day appeal process.

(7) Issue a written Final Decision to the EIC via Certified U.S. Mail.

(8) Base decisions on a simple majority of the members in attendance. The decision of the EISC is final and is not appealable beyond the 30-day appeal process.

(g) The EIC shall:

(1) Submit a resume of qualifications to the RTWC, including, but not limited to, a demonstration of knowledge and experience regarding worker's compensation laws and other employee entitlement benefits;

(2) Respond within seven (7) working days of receipt of a referral by the local RTWC and shall:

(A) Contact the injured/ill employee by telephone at the number provided by the RTWC, or contact the injured/ill employee by Certified U.S. Mail;

(B) Inform the employee about the EIP; and

(C) Schedule an EIC visit, if requested by the employee.

(3) Notify the local RTWC of the scheduled visit with the injured/ill employee within three (3) working days of contact with the employee, if the employee requests an EIC visit;

(4) Explain all benefit options to injured/ill employee during the EIC visit;

(5) Obtain prior approval from the local RTWC for additional telephone calls or visits to the injured/ill employee;

(6) Attend training, if requested, by the OEHS;

(7) Submit billings for early intervention services to the RTWC in accordance with the following:

(A) All billings for casework provided are to be itemized in tenths of an hour.

(B) All EIC visits and casework provided are to be billed at the Professional Hourly Rate of $65.

1. Billable costs include, but are not limited to, initial file review; scheduling contact with employee; contact with employee; meeting with employee; assessment of employee needs; counseling; and guidance. Any file review or consultation with the employee that exceeds two (2) hours shall include a report providing documentation in support of the need for the extended time.

2. Non-billable costs include, but are not limited to, postage, clerical services, photocopies, in-house waiting time, attempted telephone contacts, and in-house staffing.

(C) All reimbursement for mileage are to be billed at the travel rate of $32.50 per hour and $0.31 per mile.

(h) The EIC shall not have access to an employee's confidential medical and personnel records.

(i) The AMPD shall provide medical, psychological, and psychiatric treatment under Labor Code 4600, and provide written opinions or evaluations to assist in decisions regarding compensability pursuant to CCR, Title 8, Section 9785, at the request of the RTWC.

(j) The RTWC shall:

(1) Serve as local EIP coordinator;

(2) Coordinate local EISC meetings at the institution(s) and participate as a non-voting chairperson;

(3) Refer the qualified injured/ill employee to an EIC within three (3) working days of knowledge of the employee's EIP eligibility;

(4) Review, authorize, and forward itemized billings submitted by the EIC for payment to the Adjusting Agency; and

(5) Maintain a log of injured/ill worker EIC referrals and submit to the OEHS by the 10th of every month.

(k) The Adjusting Agency shall:

(1) Compile reports and statistical data as requested by the Department;

(2) Refer departmental injured/ill employees to a Physician for any additional medical, psychological, and psychiatric evaluations as needed to determine compensability for disputed claims; and

(3) Pay itemized bills for EIP services submitted by the RTWC.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code; and Section 3214, Labor Code. Reference: Section 5054, Penal Code; Sections 139.2, 3209.3, 3214, 4600 and 5307.1, Labor Code; CCR, Title 2, Section 714; CCR, Title 8, Sections 9785, 10132 and 10132.1; CCR, Title 15, Div. 3, Section 3434; Section 8547.2(b), Government Code; and State of California, Interagency Agreement, A9450207, AM-IV.

HISTORY:

1. New section filed 8-19-2002; operative 9-18-2002 (Register 2002, No. 34).
2. Amendment of subsections (d)(2), (d)(5) and (j)(2) and amendment of Note filed 1-27-2004 as an emergency; operative 1-27-2004 (Register 2004, No. 5). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-27-2004 order transmitted to OAL 4-7-2004 and filed 5-18-2004 (Register 2004, No. 21).

Article 4. General Personnel Regulations

3430. General Policy.

To successfully meet the challenges and discharge the responsibilities of the department, each institution and parole region, requires a skilled and dedicated staff of employees, working in close cooperation with a high degree of morale. The department will encourage a high esprit de corps by enabling employees to improve their skills through training, by constant effort to make working conditions safe and pleasant, and by protecting the rights and privileges of employees under civil service laws and rules. Full information regarding rights and responsibilities of employees under civil service may be found at institution personnel offices, the personnel office of the Parole and Community Services Division, the departmental personnel office, and the offices of the State Personnel Board.

Comment: Former DP-5401, policy, general.

3431. Civil Service.

HISTORY:

1. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

3432. Hours of Employment.

Hours of employment will be in accordance with state civil service rules. The wardens, superintendents and regional administrators, with the approval of the director, will determine the hours of employment for all employees under their jurisdiction.

Comment: Former DP-5403, hours of employment.

3433. Vacations.

Employee vacations will be granted at times convenient to the institution, departmental division, and parole region, subject to the approval of the warden, superintendent or regional administrator.

Comment: Former DP-5404, vacations.

3434. Grievances.

All employees have the right to appeal to the director from any grievance relating to their employment with the department. Such grievances must be submitted through the departmental grievance procedure. This in no way interferes with the right of a civil service employee to appeal or otherwise contest actions as provided by law, the State Personnel Board, or civil service regulations.

Comment: Former DP-5405, grievances.

3435. In-Service Training.

All new employees will be given prescribed orientation training upon the commencement of their employment. All employees are required to participate in the in-service training program as directed. When work schedules permit, employees may attend in-service training classes on state time during their regular working hours.

Comment: Former DP-5406, in-service training.

3436. Limited Term Light Duty Assignments.

(a) The Hiring Authority may utilize Limited Term Light Duty assignments to allow employees with documented medical limitations to work. The Hiring Authority shall place the employee in a vacant budgeted position within the employee's bargaining unit, or allow the employee to continue working in their current position, while temporarily waiving the essential functions of the job.

(b) No position will be permanently identified as a ''light duty'' position. Limited Term Light Duty for any one employee shall not extend beyond 60 days in a 6-month period for any medical condition(s). In addition, Limited Term Light Duty shall only be offered for the duration of the vacant budgeted position (not to exceed 60 days).

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

HISTORY:

1. New section filed 1-31-2005 as an emergency; operative 1-31-2005 (Register 2005, No. 5). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 7-11-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-31-2005 order, including amendment of section, transmitted to OAL 6-21-2005 and filed 8-3-2005 (Register 2005, No. 31).

3439. Research.

NOTE: Authority cited: Sections 3509.5, 3517, and 5058, Penal Code. Reference: Sections 3500 through 3524, and 5054, Penal Code.

HISTORY:

1. New section filed 4-7-95; operative 5-8-95 (Register 95, No. 14).
2. Change without regulatory effect adding new article 9.1 (section 3369.5) and renumbering former section 3439 to new section 3369.5 filed 8-1-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 31).

Article 5. Camp Regulations

Repealed.

3440. Officer-In-Charge.

Repealed.

HISTORY:

1. Repealer of article 5 (Sections 3440–3444) and section filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3441. Camp Counts.

Repealed.

HISTORY:

1. Repealer filed 10-27-39; operative 11-26-93 (Register 93, No. 44).

3442. Camp Log.

Repealed.

HISTORY:

1. Repealer filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3443. Transporting Inmates.

Repealed.

HISTORY:

1. Repealer filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

3444. Escorting Inmates.

Repealed.

HISTORY:

1. Renumbering and amendment of former section 3444 to section 3015(c) and repealer of former section 3444 filed 10-27-93; operative 11-26-93 (Register 93, No. 44).

Article 6. Information Practices

3450. Personal Information Record Access and Amendment.

(a) Any person on whom the department maintains a record or file containing personal information has the right to inspect their record or authorize any person to inspect such records on their behalf and to request amendment to correct outdated, inaccurate or incomplete information.

(1) Requests to inspect a record shall be submitted in writing to the office or official responsible for maintaining the record.

(2) Requests to amend a record or file shall be submitted in writing, including documentary evidence to support the proposed amendment, to the source of the contested information, or if the source is not available, to the office or official responsible for maintaining the record.

(b) The denial of a request to amend information may be appealed in writing first to the institution head or headquarters' division head and then to the director, and shall include all documentation pertaining to the requested amendment. Inmates and parolees may appeal the denial of a request using the inmate/parolee appeal process established in these regulations.

(c) When an individual's appeal of the request decision is denied, they may submit to the office or official responsible for maintaining the record a statement of disagreement for placement in the record or file. The statement shall normally be limited to three pages and shall remain a part of the record for as long as the disputed information is retained.

(d) No inmate or parolee shall prepare, handle, or destroy any portion of a departmental record containing confidential information as that term is defined in section 3321.

(e) No inmate or parolee shall prepare, handle, or destroy any portion of a departmental record containing personal information except:

(1) As provided for in section 3041(e), or

(2) Their copies of such records provided to them by the Department.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code; section 1798.20, Civil Code.

HISTORY:

1. Repealer of article 6 (Sections 3450–3459) and new article 6 (Sections 3450–3453) filed 8-22-79; effective thirtieth day thereafter (Register 79, No. 34).
2. Repealer and new section filed 11-9-92; operative 12-9-92 (Register 92, No. 46).
3. Amendment of subsection (d) and new subsections (e)–(e)(2) filed 2-22-95; operative 3-24-95 (Register 95, No. 8).

3451. Methadone Patient Consent for Disclosure.

A methadone patient's written consent to disclosure of their personal or confidential information shall not be revocable until

the treatment period for which it was given has concluded or 60 days after signing of the consent, whichever is greater.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

HISTORY:
1. Repealer and new section filed 11-9-92; operative 12-9-92 (Register 92, No. 46).

3452. Access and Amendment of Records.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 1798.30–1798.42, Civil Code.

HISTORY:
1. Repealer filed 11-9-92; operative 12-9-92 (Register 92, No. 46).

3453. Notice.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 1798.17, Civil Code.

HISTORY:
1. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

Article 7. Selection of Professional Consulting Services

3454. Selection of Professional Consulting Services.

(a) The services of private architectural, engineering, and other firms, as defined in section 4525(a) of the Government Code, shall be secured on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and section 4525, et seq. Government Code.

HISTORY:
1. New Article 7 (Sections 3454–3463) filed 7-12-82; effective thirtieth day thereafter (Register 82, No. 29).
2. Change without regulatory effect amending section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).
3. Editorial correction of printing error misstating section Title (Register 91, No. 11).
4. Editorial correction of printing error in History 1. (Register 92, No. 5).
5. Amendment of subsection (a), repealer of subsection (b), and amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
6. Amendment of article heading and section heading filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3455. Definitions.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and section 4525, et seq. Government Code.

HISTORY:
1. Editorial correction filed 2-19-85 (Register 85, No. 8).
2. Change without regulatory effect repealing section filed 10-29-90 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 6).
3. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).

3456. Procuring Services.

(a) Notice of Announcement. Where services subject to this article are identified, a statewide notice of announcement shall be made by the director, or designee, through publications of the respective professional societies.

(b) The notice of announcement shall also be advertised in two major California daily newspapers and in the California State Contracts Register.

(c) Failure of the professional societies or newspapers to publish the notice of announcement shall not operate to invalidate any contract.

(d) Firms selected may be retained for one year or longer, if needed to complete the services.

(e) The announcement in the California State Contracts Register shall include information as identified in section 14825.1, Government Code.

(f) All announcements in professional societies or newspapers shall contain the following minimal information:

(1) The nature of the work;

(2) The criteria upon which the award shall be made; and,

(3) The time within which statements of interest, qualification and performance data will be received.

NOTE: Authority cited: section 5058, Penal Code; and section 4526 and 4527, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; section 14825.1, Government Code.

HISTORY:
1. Amendment of section and Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment of subsections (a) and (d) and amendment of Note filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3457. Establish Criteria.

The director, or designee, shall establish criteria which will comprise the basis for selection which shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel, specialized staff capability, workload, ability to meet schedules and budgets, principals to be assigned, nature and quality of completed work, reliability and continuity of the firm, location, professional awards and other considerations deemed relevant. Such factors shall be weighted by the director, or designee, according to the nature of the work to be performed, the needs of the state and complexity and special requirements of the specific work.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of section and Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3458. Selection of Architects or Engineers.

After expiration of the period stated in the publications, the director, or designee, shall evaluate statements of qualifications and performance data submitted by interested firms and on file in the department. The director, or designee, shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required service. From the firms with which the director, or designee, holds discussions, the director, or designee shall select no less than three, in order of preference, based upon the established criteria, whom the director deems to be the most highly qualified to provide the services required. In the event there are fewer than three qualifying submittals, the director, or designee, will make a finding as to whether it is in the best interest of the state to proceed or re-advertise.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3459. Estimate of Value of Services.

Before any discussion with any firm concerning fees, the director, or designee, shall cause an estimate of the value of such services to be prepared. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3460. Negotiation.

The director, or designee, shall attempt to negotiate a contract with the best qualified firm. Should the director, or designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The director, or designee, shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The director shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the director be unable to negotiate a satisfactory contract with any of the selected firms, the director, or designee, may select additional firms in order of their competence and qualifications and continue negotiations in the manner prescribed until an agreement is reached.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3461. Amendments.

In instances where the state effects a necessary change in the work during the course of performance of the contract, the firm's compensation may be adjusted by mutual written agreement in a reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).

3462. Contracting in Phases.

Should the director, or designee, determine that it is necessary or desirable to have the work performed in phases, it will not be necessary to negotiate the total contract price in the initial instance, provided that the director, or designee, shall have determined that the firm is best qualified to perform the work at reasonable cost, and the contract contains provisions that the state, at its option, may utilize the firm for other phases and the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually-agreed upon and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3463. Small Business Participants.

The director, or designee, shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for services for which the director, or designee, concludes that small business firms could be especially qualified. The director, or designee, shall assist firms in attempting to qualify for small business status. A failure of the director, or designee, to send a copy of an announcement to any firm shall not operate to invalidate any contract.

NOTE: Authority cited: section 5058, Penal Code; and section 4526, Government Code. Reference: Sections 5054 and 7000 et seq., Penal Code; and Sections 4526 and 4527, Government Code.

HISTORY:
1. Amendment of Note filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

3464. Applicability of this Article.

This article shall not apply where the director, or designee, determines that:

(a) The services needed are more of a technical nature, and

(b) The services needed involve little professional judgment; and

(c) Requiring bids would be in the public interest.

NOTE: Authority cited: section 5058, Penal Code, and section 4526, Government Code. Reference: section 4529, Government Code.

HISTORY:
1. New section filed 9-8-97; operative 10-8-97 (Register 97, No. 37).
2. Amendment of first paragraph filed 7-12-2002; operative 8-11-2002 (Register 2002, No. 28).

Article 8. Disabled Veteran Business Enterprise Program

3475. Disabled Veteran Business Enterprise Goal.

(a) The disabled veteran business enterprise goal established in Public Contract Code section 10115(c) applies to the overall annual expenditures of the department. The goal shall be used for specific contracts unless the department determines that a more appropriate disabled veteran business enterprise goal shall be used for a specific contract based on one or more of the following conditions:

(1) The contract is for an amount of $15,000 or less.

(2) The department has determined that there are no disabled veteran business enterprises within a reasonable market area.

(3) The department has determined that the project or contract contains no opportunity for subcontracting.

(4) The department has determined that an emergency exists involving the public health, welfare, safety, or security of a facility and/or the public.

(5) The department has determined that the contract for services to be supplied exclusively by an individual or business concern involves minor or insignificant incidental services or supplies.

(6) The department has determined that the contract will result in the state being a user of services normally provided to the public at large, e.g., electricity, gas, water, garbage collection, use of common carriers, and/or over-night accommodations.

(7) The department has determined that there is only one person or entity that can reasonably and effectively perform the required services for which there is minor, insignificant, or no opportunity for subcontracting.

(8) The department has determined that extraordinary circumstances exist which make it impossible for the potential contractor or the department to comply with the Disabled Veteran Business Enterprise requirements.

(9) An amendment to an existing contract is either based on one or more of the above conditions or the amendment will not materially change the scope of services, as determined by the department.

(10) The work is to be performed pursuant to a change order or amendment to an existing construction contract.

(b) When it is necessary for the department to establish a more appropriate disabled veteran business enterprise goal for a specific contract, the department shall identify disabled veteran business enterprises and involve them in the contracting process to the extent reasonably possible.

NOTE: Authority cited: section 5058, Penal Code; and section 10115.3(b), Public Contract Code. Reference: Sections 10115 and 10115.11, Public Contract Code.

HISTORY:

1. Amendment of article heading and renumbering and amendment of former section 3476 opening paragraph to new section 3475 filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 91, No. 6.
2. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
3. Change without regulatory effect amending subsection (a)(1) filed 3-27-95 pursuant to section 100, Title 1, California Code of Regulations (Register 95, No. 13).
4. Amendment of article heading, section heading, and subsections (a), (a)(2), (a)(8) and (b) filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).

3476. Disabled Veteran Business Enterprise Bid and Sole Source Requirements.

(a) Within the time frames specified by the department's bid or sole source package, potential contractors shall be required to provide the department with either (1) or (2) below:

(1) Documentation, as required in the department's bid or sole source package, that they have met the disabled veteran business enterprise goals established in the respective package which shall include, but not be limited to, the names of their subcontractors; certification pursuant to section 3477; and dollar amounts of the subcontracts.

(2) Documentation, as required in the department's bid or sole source package pursuant to section 3478 of their good faith effort to meet the disabled veteran business enterprise goal established in the department's bid or sole source package.

(b) For the purpose of this article, a disabled veteran business enterprise must perform a commercially useful function. A disabled veteran business enterprise is considered to be performing a commercially useful function when it meets both of the following criteria:

(1) The business concern is responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing, or supervising the work involved; and performing work that is normal for its business services and functions.

(2) The business concern is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

NOTE: Authority cited: section 5058, Penal Code; and section 10115.3(b), Public Contract Code. Reference: Sections 10115, 10115.2 and 10115.3, Public Contract Code.

HISTORY:

1. Renumbering and amendment of former section 3477 opening paragraph to new section 3476, amendment of section heading and Note: filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
3. Amendment of subsections (a)(1) and (a)(2) filed 11-22-96 as an emergency; operative 11-22-96 (Register 96, No. 47). A Certificate of Compliance must be transmitted to OAL by 5-1-97 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11-22-96 order, including amendment of subsection (b), transmitted to OAL 3-20-97 and filed 5-1-97 (Register 97, No. 18).
5. Amendment of section heading and subsections (a)(1)–(b)(1) filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).

3477. Certification of a Disabled Veteran Business Enterprise.

(a) As specified in the department's bid or sole source package, potential contractors shall be required to provide the department with certification documentation that a business concern is certified as a disabled veteran business enterprise as defined in section 3000.

NOTE: Authority cited: section 5058, Penal Code; and section 10115.3(b), Public Contract Code. Reference: Sections 2050–2053 and 10115.1, Public Contract Code.

HISTORY:

1. Amendment of subsection (a), new section heading, subsection (b) and Note filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
3. Amendment of subsection (a) filed 11-22-96 as an emergency; operative 11-22-96 (Register 96, No. 47). A Certificate of Compliance must be transmitted to OAL by 5-1-97 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11-22-96 order, including amendment of section heading, transmitted to OAL 3-20-97 and filed 5-1-97 (Register 97, No. 18).
5. Amendment of section heading and subsection (a) and repealer of subsection (b) filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).

3478. Good Faith Effort Documentation.

A potential contractor shall be considered to have made a good faith effort when he/she submits, within specified time limits, documentary evidence, as required in the department's bid or sole source package, that all of the following actions were taken:

(a) Contact was made with the department to identify disabled veteran business enterprise business concerns.

(b) Contact was made with other federal and state agencies and local disabled veteran business enterprise organizations to identify disabled veteran business enterprises.

(c) Advertising was published in trade papers and disabled veteran business enterprise focus papers, as specified in the bid or sole source package, unless time limits imposed by the department did not permit such advertising. Trade papers and disabled veteran business enterprise focus papers, as defined in section 3000, must be acceptable to the department.

(d) Invitations to bid were submitted to potential disabled veteran business enterprise contractors.

(e) Bids submitted by disabled veteran business enterprises were fairly considered.

NOTE: Authority cited: section 5058, Penal Code; and section 10115.3(b), Public Contract Code. Reference: Sections 10115.2–10115.4, Public Contract Code.

HISTORY:

1. Renumbering and amendment of former section 3477(b) to new section 3478, new section heading, subsection (e) and Note filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
3. Amendment filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).

3479. Monitoring Disabled Veteran Business Enterprise Goals.

(a) The department shall monitor adherence to the disabled veteran business enterprise goal established in Public Contract Code section 10115(c).

(b) Such monitoring may include, but is not limited to, visiting sites and requiring reports from contractors on disabled veteran business enterprise participation.

NOTE: Authority cited: section 5058, Penal Code; and section 10115.3(b), Public Contract Code. Reference: Sections 10115 and 10115.3, Public Contract Code.

HISTORY:

1. New section filed 10-18-93 as an emergency; operative 10-18-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-15-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-18-93 order transmitted to OAL 2-15-94 and filed 3-16-94 (Register 94, No. 11).
3. Amendment of section heading and section filed 11-13-98 as an emergency; operative 11-13-98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-15-99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11-13-98 order transmitted to OAL 2-10-99 and filed 3-8-99 (Register 99, No. 11).

Article 9. Joint Venture Program

3480. Joint Venture Program.

The secretary shall establish Joint Venture Program operations in state prison facilities pursuant to the Prison Inmate Labor Initiative of 1990 (PILI). This program shall allow employers to employ inmates for the purpose of producing goods or services that may be sold to the public. The purpose of the program shall include preparing offenders for return to society by offering relevant job skills and work habits to increase success on parole, thereby benefiting society at large.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference Sections 2717.2 and 5058, Penal Code.

HISTORY:

1. New section filed 12-3-90 as an emergency; operative 12-3-90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 4-2-91 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of printing error inadvertently omitting text (Register 91, No. 11).
3. Certificate of Compliance as to 11-28-90 order transmitted to OAL 3-21-91 and filed 4-22-91 (Register 91, No. 20).
4. Renumbering of former section 3480 to new section 3480.1 and new section 3480 filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).

3480.1. Joint Venture Policy Advisory Board.

The Joint Venture Policy Advisory Board, established in the department by Penal Code section 2717.4, shall serve to advise the secretary of policies that further the purposes of the Prison Inmate Labor Initiative of 1990. The board shall meet at the call of the chairperson. The secretary shall serve as the chairperson of the board.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.4 and 5054, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3480 to new section 3480.1 filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).

3481. Joint Venture Employer Selection Criteria.

(a) A Joint Venture Employer (JVE) shall be selected on the basis of their ability to further the purpose of the PILI. The secretary shall consider the employer's ability to:

(1) Provide inmates with the means to reimburse the state from earned wages for a portion of the cost of the inmate's room and board.

(2) Provide inmates with the means of paying restitution and compensation to the victims of crime from wages earned.

(3) Employ inmates in productive work and provide them with the opportunity to earn money while encouraging and maintaining safe prison operations.

(4) Provide inmates with the means to support their families to the extent possible.

(5) Teach inmates skills and work habits that may be used upon their release from prison by patterning the operation after those operations outside of prison.

(6) Assist inmates in their rehabilitation.

(7) Assist with retaining or reclaiming jobs for California, supporting new or developing California industries, or creating jobs for a deficient labor market as determined in cooperation with the Employment Development Department.

(b) The secretary shall consider whether the operation will have an adverse impact upon California's labor force.

(c) The secretary shall consider the operation's effect on public safety, security of the institution, and applicable worker safety standards.

(d) The secretary shall consider the financial status and stability of the prospective Joint Venture Employer company prior to the execution of a contract with the Joint Venture Employer.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.2, 2717.5 and 5054, Penal Code; and Section 5, Article XIV of the State Constitution.

HISTORY:

1. New section filed 12-3-90 as an emergency; operative 12-3-90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 4-2-91 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of printing error inadvertently omitting text (Register 91, No. 11).

3. Certificate of Compliance as to 11-28-90 order transmitted to OAL 3-21-91 and filed 4-22-91 (Register 91, No. 20).
4. Editorial correction of printing error in subsection (a) (Register 92, No. 5).
5. Amendment of subsections (a), (a)(5), (b) and (c) and new subsection (d) filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).

3482. Joint Venture Program Contracts.

(a) In addition to state contract requirements, each Joint Venture Program (JVP) contract shall include, but not be limited to, the following:

(1) A detailed description of the Joint Venture Employer's program operation, including but not limited to, the Joint Venture Employer's type of business and products produced.

(2) The conditions and requirements under which the Joint Venture Employer's non-inmate employees shall be admitted onto or excluded from departmental or departmentally leased property.

(3) A provision for Joint Venture Employer non-inmate employee orientation training which shall consist of those items necessary for employees to operate the industry within the institution in a consistent, secure and effective manner. Ongoing training shall be scheduled as directed by the institution head.

(4) A requirement that inmate-employees shall be paid ''comparable wages'' as defined by PC section 2717.8. ''Comparable wages'' means that compensation of inmate-employees by the Joint Venture Employer shall be comparable to the wages paid by the Joint Venture Employer to non-inmate employees performing the same or similar work for that employer. If the Joint Venture Employer does not employ such non-inmate employees in the same or similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. These wages are subject to the deductions listed in Section 3485(h) and the mandatory savings listed in Section 3485(i).

(5) A provision that the administrator of the JVP shall monitor the wage rates paid to inmate-employees for compliance with the comparable wage requirement of PC section 2717.8.

(6) Hours of inmate employment and work schedule.

(7) Minimum and maximum inmate workforce requirements.

(8) Contraband items.

(9) Work-site security.

(10) Communications.

(11) Utilities.

(12) Responsibilities of the Joint Venture Employer, specifically those regarding:

(A) Obligation to pay inmate-employees comparable wages as required by PC section 2717.8.

(B) Compliance with all applicable record-keeping requirements set forth in the California Labor Code and applicable Industrial Welfare Commission Wage Orders.

(C) General Liability, Fire, Legal, and Automobile Liability Insurance.

(D) Maintenance of production equipment.

(E) Providing production supplies, materials, and equipment.

(F) Adherence to applicable federal, state, and local health and safety laws and regulations.

(G) Inmate-employee benefits.

(H) Notification to inmate-employees of their rights under PC section 2717.8 and relevant Labor Code provisions.

(I) Compliance with the requirements of department's approved inmate appeal procedures as required by Title 15, California Code of Regulations (CCR) Section 3084.1 or relevant Labor Code provisions.

(J) A Security Bond, or equivalent security, posting requirement shall be included in the contract. The amount of the bond, or its equivalent, shall be not less than two months wages for the workforce contemplated by the Joint Venture Employer after six months of operation, and shall be determined on a case-by-case basis based on, but not limited to, the size of the inmate workforce and the size of space leased by the Joint Venture Employer. The bond or its equivalent shall be retained by the department for the duration of the contract and may be used by the department in the event a Joint Venture Employer fails to submit payroll or defaults on any of its obligations to the State. The department shall apply the bond first to pay past due wages to inmate-employees and thereafter, the bond shall be available to pay unpaid obligations to the State, including, but not limited to, rent, utilities, workers' compensation, and custody costs.

(K) A requirement that the Joint Venture Employer prepare and submit to the administrator of the JVP for its review and approval:

1. Prior to commencing business, a detailed job description for each job to be performed at the facility;

2. At the time additional jobs are created, a detailed job description for each new job;

3. A revised job description when there is a twenty-five percent or more change in job duties;

4. If there are non-inmate employees performing the same or similar work for that employer, a detailed job description, wage rate, and a wage plan for its non-inmate workforce with documentation; or

5. Annually, an updated, detailed job description for all jobs at the Joint Venture Employer's operation. Duty statements shall include a description of tasks to be performed, machines used, and skills required for each job and shall be certified as to the accuracy of the job description under oath by the JVE.

(L) A requirement that the Joint Venture Employer prepare and submit to the department for its review and approval:

1. Prior to initial start-up of the Joint Venture Employer's operation, a wage plan detailing the comparable wage rate for each position, taking into account seniority, tenure, training, technical nature of the work being performed, or other factors; and

2. Annually, the Joint Venture Employer's current wage plan.

(M) Hiring of eligible inmate-employees, which is a decision within the sole determination of the Joint Venture Employer.

(N) Inmate-employee time keeping.

(O) Workers' Compensation Rate.

(P) Agreement that the Joint Venture Employer's business will not result in the displacement of any non-inmate workers performing the same work.

(Q) The process used by JVE for final selection of inmate-employees.

(R) Sole responsibility of Joint Venture Employer to comply with all applicable federal, state, and local laws and regulations. (Nothing in this section should be construed to modify the responsibility of the State as defined in the California Code Regulations, Title 15, Division 3, Chapter 1, Subchapter 5, Article 9, Section 3484.)

(S) Inmate-employee performance evaluations.

(T) Requirement to post notices of employee rights.

(U) Provision of all applicable inmate-employee payroll data.

(13) Responsibilities of the department/facility, specifically those regarding:

(A) Designation of a Coordinator by the facility.

(B) Lockdowns, fog lines and other circumstances under which inmate-employees may be restricted from work.

(C) Right of entry and searches of the area leased by the Joint Venture Employer.

(D) Inmate-employee discipline.

(E) Program evaluation.

(F) Initial screening of potential inmate-employee pool for security purposes.

(b) No Joint Venture Program contract shall be executed by the department that will initiate employment by inmates in the same

job classification as non-in-mate employees of the same employer who are on strike or subject to lockout as defined in PC section 2717.6.

(c) The Joint Venture Employer and any and all agents and employees of the Joint Venture Employer shall act in an independent capacity and not as officers or employees of the State. ''Joint Venture Program'' is merely the colloquial name of the program, and does not create or connote a ''joint venture'' or partnership relationship between the parties as a matter of law. Nothing in this program shall be construed as constituting the parties herein as partners or joint venturers as those terms are defined under California law or any other law.

(d) Nothing in these regulations is intended to establish an employer/employee relationship between any inmate participating in the Joint Venture Program and the State of California, the department, or any individual agency or office of the State of California.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.5, 2717.6, 2717.8, and 5054, Penal Code; Section 5, Article XIV of the State Constitution; and *Vasquez* v. *State of California*, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

HISTORY:

1. New section filed 11-28-90 as an emergency; operative 11-28-90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 3-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-28-90 order transmitted to OAL 3-21-91 and filed 4-22-91 (Register 91, No. 20).
3. Amendment filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).
4. Change without regulatory effect amending subsection (a)(12)(R) filed 1-25-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 4).
5. Amendment of subsections (a), (a)(4)–(5) and (a)(12)(K) and amendment of Note filed 10-18-2007 as an emergency; operative 10-18-2007 (Register 2007, No. 42). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-26-2008 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-18-2007 order transmitted to OAL 2-4-2008 and filed 3-18-2008 (Register 2008, No. 12).

3483. Joint Venture Lease.

(a) The State of California, acting through the Department of General Services, with the approval of the department, shall enter into a lease with all Joint Venture Employer businesses.

(b) In addition to state leasing requirements, each Joint Venture Program lease shall include, but not be limited to, the following:

(1) Description of the leased space.

(2) Lease terms.

(3) Rent to be paid to Department of General Services.

(4) Utility rates.

(5) Maintenance of leased space.

(6) Prohibited/contraband items.

(7) Environmental Compliance.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.2 and 5054, Penal Code.

HISTORY:

1. New section filed 12-3-90 as an emergency; operative 12-3-90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 4-2-91 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of printing error inadvertently omitting text (Register 91, No. 11).
3. Certificate of Compliance as to 11-28-90 order transmitted to OAL 3-21-91 and filed 4-22-91 (Register 91, No. 20).
4. Renumbering of former section 3483 to new section 3485 and new section 3483 filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).

3484. Monitoring Comparable Wages and Wage Plans.

(a) The JVP shall monitor the wage rates and wage plans submitted by the Joint Venture Employer for compliance with PC section 2717.8. Monitoring shall include, but not be limited to, unannounced on-site visits to determine the accuracy of the job descriptions and to assess compliance with wage plan requirements including compliance with PC section 2717.8. The JVP shall develop a written protocol for these visits and retain a copy of the on-site visit reports for at least five years.

(b) The JVP shall obtain wage data, applicable Standard Occupational Codes (SOC), and survey data from Occupational Employment Surveys (OES) for each inmate-employee job description from the Employment Development Department annually, upon the creation of any new JVE job position, upon the alteration of any existing position, or upon the establishment of any new JVP business.

(c) The JVE job descriptions and wage plans shall be reviewed annually, upon the creation of any new JVE job position, upon the alteration of any existing position, or upon establishment of a new JVP business.

(d) The JVP shall maintain a database which includes each inmate's date of hire, hourly wage, hours worked and the SOC code for each inmate position.

(e) The JVP shall conduct desk audits every ninety days of a randomly selected ten percent of the inmate workforce and shall review salary levels to verify that the comparable wage rates are being paid.

NOTE: Authority cited: 2717.3 and 5058, Penal Code. Reference: Sections 2717.3, 2717.4, 2717.8 and 5054, Penal Code; and *Vasquez* v. *State of California*, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

HISTORY:

1. New section filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).
2. Amendment of section and Note filed 10-18-2007 as an emergency; operative 10-18-2007 (Register 2007, No. 42). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-26-2008 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-18-2007 order transmitted to OAL 2-4-2008 and filed 3-18-2008 (Register 2008, No. 12).

3485. Inmate Joint Venture Program Participation.

(a) Inmate employment is ''at will'' and as such is at the discretion of the employer. The Joint Venture Employer may lawfully terminate inmate-employees at any time with or without cause but not for unlawful reasons. The department may remove inmate-employees from participation in the Joint Venture Program at any time with or without cause.

(b) As a condition of employment, all inmate-employees agree to participate in random urine testing.

(c) Earned wages paid by the Joint Venture Employer will be distributed to inmates by the department once a month, regardless of the frequency the employer issues payroll.

(d) Inmate participation in the Joint Venture Program shall be voluntary as evidenced by their written consent on the department's CDCR Form 1872, (Rev. 9/05) Inmate Participation Agreement—Joint Venture Program (JVP). The Joint Venture Employer shall provide to all inmates hired written information on the conditions of their participation in the Joint Venture Program. Such information shall include, but not be limited to:

(1) Hours of work and the requirements that comparable wages be paid.

(2) Job description.

(3) Right to file complaints regarding claimed violations of their rights under PC section 2717.8, relevant provisions of the Labor Code, and applicable Industrial Welfare Commission Wage Orders.

(4) Inmates shall not be subject to retaliation, as specified in Title 15, CCR, Section 3084.1(d), by the department for their use of the inmate appeal process, to address Joint Venture Employer-related matters. Neither the Joint Venture Employer nor the department shall retaliate against inmates for exercising rights guaranteed under the State Labor Code or elsewhere in law to address Joint Venture Employer-related matters.

(e) The Joint Venture Employer shall post at the worksite and provide to each inmate-employee a notice of applicable employment laws and relevant Labor Code provisions.

(f) The total daily hours worked by inmate-employees in the same job classification as non-inmate employees of the same Joint Venture Employer who are on strike or subject to lockout shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the Joint Venture Program has been in operation for less than six months, for the period of the operations. If the secretary determines upon receipt of written notification by the union representing the non-inmate employees on strike or subject to lockout that such a condition exists, the limitation on inmate-employee work hours shall be implemented within 48 hours.

(g) A separate inmate waiting list shall, if necessary, be maintained for each Joint Venture Program operation.

(1) An inmate's inclusion on any waiting list for a Joint Venture Program operation shall not affect their status on any other waiting lists maintained by the facility until such time as the inmate is employed by the Joint Venture Employer.

(2) If the inmate refuses to work, quits, or is removed from the Joint Venture Program, they shall be immediately returned to their housing unit, temporarily unassigned and referred to a classification committee for placement either on a facility waiting list or, if they refuse to work, in a non-credit earning group pursuant to Title 15, CCR Section 3375.

(h) Wages earned by each inmate participating in a Joint Venture Program operation shall be subject to the following deductions, which shall not exceed 80 percent of the inmate's gross wages:

(1) Federal, state and local taxes.

(2) Twenty percent of the inmate's net wages after taxes shall be for any lawful restitution fine or contributions to any fund established by law compensate the victims of crime.

(3) Twenty percent of the inmate's net wages after taxes shall be for costs of room and board which shall be remitted to the department.

(4) Twenty percent of the inmate's net wages after taxes for allocations for support of family pursuant to state statute, court order, or agreement of the inmate. If the inmate chooses not to send money to a family member, and there is no court-ordered withholding, these funds will be deposited in mandatory savings.

(i) In addition to (h) of 3485, twenty percent of the inmate's net wages after taxes shall be retained for the inmate in mandatory savings under the control of the department.

(1) Funds retained for an inmate's mandatory savings shall be deposited in an interest bearing account.

(2) Inmate-employees who terminate from Joint Venture Program with a savings account balance of $500 or less may voluntarily elect to close their account and have the balance forwarded to their institutional trust account in order to avoid account fees.

(3) Each inmate's savings, plus the interest accrued by their savings, shall be provided to the inmate upon their release. Inmate-employee savings accounts are intended solely for the deposit of wages earned from employment with the JVE. Institution heads may authorize an earlier withdrawal of up to 50% of an inmate's savings in cases where the inmate is sentenced to 15 years or more and the inmate has accrued $6,500 or more from Joint Venture wages in their account.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code.

HISTORY:

1. Renumbering and amendment of former section 3483 to new section 3485 and new form CDC 1872 filed 9-13-2005; operative 9-13-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 37).
2. Amendment of subsections (i)(2)–(3) filed 10-18-2007 as an emergency; operative 10-18-2007 (Register 2007, No. 42). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-26-2008 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-18-2007 order transmitted to OAL 2-4-2008 and filed 3-18-2008 (Register 2008, No. 12).

3486. Compliance.

If a JVE is found to be in non-compliance with PC section 2717.8 or the provisions of sections 3482(a)(4) and 3482(a)(12)(K), the JVP administrator shall issue a written notice requiring the JVE, within 30 days, to comply with the JVP contract. After 30 days, if the JVE remains non-compliant with the contract, the administrator shall issue to the JVE a written 30-day cancellation notice indicating that the JVE is in material breach of contract. Any bonds held pursuant to 3483(a)(12)(J) shall be forfeited if the JVE is found to be non-compliant. At the close of the 30-day cancellation notice, if the JVE has not come into compliance with the contract, the JVE shall be terminated from the JVP.

NOTE: Authority cited: 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code; and *Vasquez* v. *State of California*, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

HISTORY:

1. New section filed 10-18-2007 as an emergency; operative 10-18-2007 (Register 2007, No. 42). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 3-26-2008 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-18-2007 order transmitted to OAL 2-4-2008 and filed 3-18-2008 (Register 2008, No. 12).

SUBCHAPTER 6. PAROLE

Article 1. Parole Release

3500. General and Special Conditions of Parole and Outpatient Status.

Persons committed to the Department who are allowed to go upon and remain upon parole or outpatient status, shall conform to the applicable rules established by or under the authority of the Board of Prison Terms and the Narcotic Addict Evaluation Authority as set forth in Title 15, Divisions 2 and 5 of the California Administrative Code.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3052 and 5076.2, Penal Code; and Sections 3151 and 3156, Welfare and Institutions Code.

HISTORY:

1. New Subchapter 6 (Articles 1–7, Sections 3500–3562, not consecutive) filed 5-13-77; effective thirtieth day thereafter (Register 77, No. 20).
2. Repealer of Subchapter 6 (Articles 1–7, Sections 3500–3560, not consecutive) and new Subchapter 6 (Article 1, section 3500) filed 3-2-83; effective thirtieth day thereafter (Register 83, No. 12). For prior history, see Registers 79, No. 34; 79, No. 8; 78, No. 29 and 77, No. 40.

3. Editorial correction of printing errors (Register 92, No. 5).

3501. Restitution Obligations.

Restitution obligations shall be considered when recommending a parolee for early discharge or when conducting annual discharge review.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4852.05 and 5054, Penal Code. Authority cited: Section 5058, Penal Code. Reference: Sections 4852.05 and 5054, Penal Code.

HISTORY:

1. New section filed 3-11-2002; operative 4-10-2002 (Register 2002, No. 11).

3502. Prerelease Referral.

An inmate's case shall be referred to the parole region for parole program development 120 days prior to the expected release date, or immediately if less time remains.

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

HISTORY:

1. Change without regulatory effect renumbering former section 3604 to new section 3502 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3503. Assignment to Parole Agent. [Reserved]

3504. Parole Assessment.

(a) For the purpose of this section, the following definitions shall apply:

(1) High Control means the highest level of supervision based on commitment offense(s) and prior criminal history. Cases designated high control shall be reserved for persons with violent felony commitments as described in Penal Code (PC) section 667.5(c), PC section 290 registrants; cases generating extensive media or public attention; or cases involving membership in gangs, as stated on CDC Form 812-A (Rev. 9/92) Notice of Critical Information—Prison Gang Identification, or membership in a disruptive group, as identified on CDC Form 812-B (Rev. 9/92) Notice of Critical Information—Disruptive Group Identification. The following minimum contact requirements shall apply to these cases:

(A) Face-to-face contact by the first working day following release from custody, but no later than the third working day following release. In most cases it is expected that this contact will take place at the office.

(B) Each month one field contact at the parolee's residence. The first face-to-face residential contact shall be within seven working days following release from custody.

(C) Each thirty days one collateral contact.

(D) If anti-narcotic testing applies, a minimum testing schedule of one test per month.

(E) Case review, thirty calendar days after assignment to this category and, if retained in this category, each sixty calendar days thereafter.

(2) High Service means the level of supervision based on service needs and behavioral patterns and is primarily utilized for the placement of civil addicts, or individuals requiring special assistance such as individuals with severe mental or psychiatric problems. The following minimum contact requirements shall apply to these cases:

(A) Face-to-face contact by the first working day following release from custody, but no later than the third working day following release. In most cases it is expected that this contact will take place at the office.

(B) Each month one field contact at the parolee's residence. The first face-to-face residential contact shall be within seven working days following release from custody.

(C) Each thirty days one collateral contact.

(D) With the exception of civil addicts, if anti-narcotic testing applies, a minimum testing schedule of one test per month. Civil addicts shall be tested weekly; two of which tests must be random/surprise urinalysis tests. One of the two random/surprise tests shall be in the field.

(E) Case review thirty calendar days after assignment to this category and, if retained in this category, each sixty calendar days thereafter.

(3) Control Services means the level of supervision based on commitment offense(s) and prior criminal history, or service needs and behavioral patterns that do not meet the specifications of high control as described in subsection (a)(1) and high service as described in subsection (a)(2). The following minimum contact requirements shall apply for these cases:

(A) Face-to-face contact by the first working day following release from custody and, when possible, the initial interview will be conducted no later than the third working day following release. In most cases, it is expected that this contact will take place at the office.

(B) Two face-to-face contacts per quarter, with at least one being at the parolee's residence. One face-to-face contact at the parolee's residence within fifteen workdays following release from custody.

(C) Each quarter one collateral contact.

(D) If anti-narcotic testing applies, felon parolees shall be tested twice every quarter and non-felon parolees two times each thirty days.

(E) Parolees who complete 180-days of satisfactory parole will automatically be assigned to the minimum supervision category. Exceptions to the automatic reduction shall include violent felony commitments described in PC section 667.5, PC section 290 registrants, cases generating extensive media or public attention, and gang members, as documented on CDC Form 812-A (Rev. 9/92).

(4) Minimum Supervision means the level of supervision based on commitment offense(s) and prior criminal history, and service needs and behavioral patterns. With the exception of parole outpatient clinic attendees and those cases/parolees identified in subsections (a)(1) and (a)(2), felon parolees who complete 180 days of satisfactory parole under control services supervision, absent a case review, shall be assigned to the minimum supervision level category unless the unit supervisor retains the case at the control services level.

One face-to-face contact shall be conducted in the month prior to discharge. If retained on parole, there shall be two field contacts annually.

(5) Collateral Contact means any communication with an individual concerning a parolee. Collateral contacts may be completed in person, via telephone, or by written or electronic medium.

(b) Upon their initial release from an institution/facility, parolees shall not be placed on the minimum supervision level category. Upon their initial release, parolees shall be placed in one of the following supervision level categories:

(1) High Control.

(2) High Service.

(3) Control Services.

(c) Civil addicts shall remain in the high service supervision level category until they complete 180 days of continuous drug-free outpatient or civil addict parole.

(d) Exceptions to placement in any of the supervision level categories or reduction in any of the supervision level categories described in subsections (a)(1) through (a)(4) may be made by the unit supervisor on a case-by-case basis.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 290, 667.5(c) and 5054, Penal Code; and Sections 3151 and 3152, Welfare and Institutions Code.

HISTORY:
1. Change without regulatory effect renumbering former section 3605 to new section 3504 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3505. [Reserved]

3506. [Reserved]

3507. [Reserved]

3508. [Reserved]

3509. [Reserved]

3510. [Reserved]

3511. [Reserved]

Article 2. Preventing Parolee Crime Program [Reserved]

3520. Preventing Parolee Crime Program [Reserved]

3521. Preventing Parolee Crime Program Components [Reserved]

3521.1. Parolee Service Centers [Reserved]

3521.2. Residential Multi-Service Centers. [Reserved]

3521.3. Day Reporting Centers. [Reserved]

3521.4. Computerized Literacy Learning Program. [Reserved]

3521.5. Drug Treatment Networks. [Reserved]

3521.6. Job Placement Networks. [Reserved]

3522. Preventing Parolee Crime Program Placement. [Reserved]

3523. Procedures for Placing Parolees in a Preventing Parolee Crime Program. [Reserved]

3524. Exclusionary Criteria. [Reserved]

3525. Eligibility Criteria. [Reserved]

3526. Status While Programming at a Preventing Parolee Crime Program Facility. [Reserved]

3527. Evaluation. [Reserved]

Article 3. Electronic Monitoring [Reserved]

3540. Continuous Electronic Monitoring. [Reserved]

3541. Required Attributes of Continuous Electronic Monitoring Devices. [Reserved]

3542. Notification of Actual or Suspected Parole Violations by System. [Reserved]

3543. Public Safety Standards for Minimum Time Between Transmission and Accuracy of Information. [Reserved]

3544. Prohibitions Against Unauthorized Access To and Use of Continuous Electronic Monitoring. [Reserved]

3545. Persons to Participate in Continuous Electronic Monitoring. [Reserved]

3546. Revocation of Continuous Monitoring. [Reserved]

3547. Noncompliance with Rules or Conditions. [Reserved]

3548. Costs of Supervision. [Reserved]

3549. Written Contracts for Continuous Electronic Monitoring. [Reserved]

Article 4. Global Positioning System Program [Reserved]

3560. Global Positioning System Program Establishment. [Reserved]

3561. Global Positioning System High Risk Sex Offenders. [Reserved]

3562. Global Positioning System Gang. [Reserved]

3563. Global Positioning System For Life. [Reserved]

3564. Transitioning Sex Offenders To Local Law Enforcement Monitoring. [Reserved]

Article 5. Sex Offenders [Reserved]

3570. Assessments. [Reserved]

3571. Residence Restrictions. [Reserved]

Article 6. High Risk Sex Offenders [Reserved]

3580. Definitions. [Reserved]

3581. Assessments. [Reserved]

3582. Residence Restrictions. [Reserved]

Article 7. Parole Searches

3600. Searches of Parolees.

(a) Any contraband or evidence of illegal activity shall be seized by the parole agent or the law enforcement officer conducting a search of a parolee's person, property, or residence. Property not belonging to the parolee shall be seized only when needed as evidence to support a parole violation charge.

(b) Property seized as evidence shall be documented on a CDC Form 1136, Evidence Report and Inventory Receipt, (Rev.6/88). A copy of the form will be available to either the parolee or a responsible adult, or left at the place of seizure.

(c) Only those areas of a parolee's residence occupied solely by the parolee or of common access shall be searched without a search warrant.

(d) A parole agent's authority to search or arrest a parolee may be delegated to another law enforcement agency under any of the following circumstances:

(1) There is reason to believe a parole violation has occurred.

(2) The parole agent, due to distance from the scene, is unable to be present.

(3) Contraband will likely be destroyed if the search is delayed.

(e) If staff's forced entry into a structure results in damages to the structure, the parole office shall make available to the landlord or owner the claim form needed to recover repair costs through the State Board of Control.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Sections 13920 and 13921, Government Code; *People* v. *Giles*, 233 Cal.App.2nd 643, 43 Cal.Rptr. 758 (1965); and *People* v. *LaJocies* 119 Cal.App.3d 947, 174 Cal.Rptr. 100 (1981).

HISTORY:
1. Change without regulatory effect adding article 7 (section 3600) and renumbering former section 3701.1 to new section 3600 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3604. Prerelease Referral.

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

HISTORY:

1. New section filed 5-27-93; operative 6-28-93 (Register 93, No. 22).
2. Change without regulatory effect renumbering former section 3604 to new section 3502 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 8. Cash Assistance

3605. Cash Assistance.

(a) Cash assistance funds may be loaned to qualified parolees/releasees or dischargees as described in (b), below.

(b) When a request for financial assistance is received, the parole agent shall determine if the requestor needs the assistance and whether other resources are available to meet the need.

(c) If assistance is deemed necessary and not available from other sources, the parole agent shall obtain both of the following:

(1) The unit supervisor's approval for any loan which either exceeds $50 or results in the requestor receiving more than $150 within a 30-day period.

(2) The signature of the requestor on CDC Form 1509 (4/82), Parolee Loan Receipt, before releasing the loan funds.

(d) The parolee/releasee or dischargee shall repay any such loans as soon as their employment and personal circumstances permit. A receipt for every repayment made on a loan shall be provided to the individual.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5060, Penal Code.

HISTORY:

1. New section filed 5-18-2000 as an emergency; operative 5-18-2000 (Register 2000, No. 20). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 10-25-2000 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of History 1 (Register 2000, No. 21).
3. New section refiled 10-24-2000 as an emergency; operative 10-26-2001 (Register 2001, No. 19). A Certificate of Compliance must be transmitted to OAL by 4-4-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-24-2000 order, including further amendment of section, transmitted to OAL 3-30-2001 and filed 5-11-2001 (Register 2001, No. 19).
5. Change without regulatory effect renumbering former section 3605 to new section 3504, adding article 8 (section 3605) and renumbering former section 3705 to section 3605 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3605.5. Release from Revocation or Limited Placement.

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

HISTORY:

1. New section filed 5-27-93; operative 6-28-93 (Register 93, No. 22).
2. Change without regulatory effect renumbering former section 3605.5 to new section 3740 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 9. Parole Outpatient Clinic

3610. Parole Outpatient Clinic Services.

(a) Parole outpatient clinic staff shall provide psychiatric diagnosis, evaluation, and treatment for parolees referred by staff. Treatment services may be supplemented by agreements with county mental health or other agencies.

(b) Parolees/Releasees shall be referred to the parole outpatient clinic under either of the following circumstances:

(1) They exhibit any of the following signs:

(A) Delusions, hallucinations, bizarre behavior, persecutory feelings, or disjointed or incoherent speech.

(B) An apparent lessening of control over their behavior.

(C) Suicidal tendencies or attempts.

(D) Extreme anxiety, tension, or depression caused by a situation similar to one which led to past problems.

(E) Excessive anxiety, tension, chronic alcohol abuse, paranoia, or belligerence.

(2) A special condition of parole or release requires the parolee/releasee to participate in psychiatric treatment.

(c) When the department's jurisdiction of a parolee/releasee is expiring and continued treatment or services are required, staff shall assist the parolee/releasee to obtain the services from a community mental health agency. If the services of the agencies cannot be obtained, the parolee/releasee may continue to receive parole outpatient clinic services until community services can be arranged or the services are no longer required.

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

HISTORY:

1. Change without regulatory effect adding article 9 (section 3610) and renumbering former section 3706 to new section 3610 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 10. Civil Addicts

3620. Special Requirements of Civil Addict Release or Parole.

A parole agent may impose special requirements necessary for a civil addict releasee's or parolee's successful adjustment to their release or parole. Any such requirements which are to remain in effect for more than seven days shall be given to the releasee or civil addict parolee in writing. Any such conditions to remain in effect for more than 30 days shall be submitted to the narcotic addict evaluation authority as a recommendation to impose as a special condition of release or parole.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3151 and 3201(c), Welfare and Institutions Code; and Section 5054, Penal Code.

HISTORY:

1. Change without regulatory effect adding article 10 (sections 3620–3625) and renumbering former section 3801 to new section 3620 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3625. Civil Addict Program Exclusion.

(a) A civil addict parolee or releasee who is determined by the department to be unfit for the civil addict program shall be returned to the committing court with a recommendation to vacate the civil commitment.

(b) Such a determination may be based upon any of the following reasons:

(1) The person engaged in any of the following activities:

(A) Extensive criminal behavior.

(B) Serious criminal behavior unrelated to addiction or substance abuse.

(C) Sales, or possession for sale, of drugs valued at more than $10,000.

(D) Repeated possession of a controlled substance in quantities considered excessive for personal use.

(E) A pattern of using or threatening to use force.

(2) The person commits an act which involved violence or the use of a deadly weapon.

(3) The person refuses to participate in department-prescribed programming.

(4) The person repeatedly absconds from supervision.

(5) The person continues in a pattern of criminal activity not likely to change as a result of supervision.

(6) The person has a long-term medical or psychiatric problem which renders them unsuitable for outpatient supervision.

(7) The person is not available for supervision because of deportation or a felony commitment to a state or federal prison.

(8) The person has been at-large for more than six months and has a prior conviction for violence, sales of drugs, robbery, or possession of a weapons.

(9) The person has been at-large for more than 12 months.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 3053, Welfare and Institutions Code; and Section 5054, Penal Code.

HISTORY:

1. Change without regulatory effect renumbering former section 3802 to new section 3625 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 11. Illegal Aliens

3630. Limitations of Parole Services.

(a) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRWORA) (8 U.S.C. Section 1621), and notwithstanding any other provision of Title 15, Division 3 of the California Code of Regulations, aliens who are not ''qualified aliens'' or ''nonimmigrant aliens,'' as defined by federal law, or who are paroled into the United States for less than one year, are ineligible to receive or participate in the following parole services:

(1) Food coupons.

(2) Bus passes.

(3) Job placement services.

(4) Short-term cash assistance.

(b) Verification of immigration status is based on information furnished to the Department by the United States Immigration and Naturalization Services prior to an inmate alien's release on parole.

(c) A determination that an alien is ineligible for the services specified in subdivision (a) may be appealed as provided in Section 3084.1 of these regulations.

(d) All eligibility requirements contained herein shall be applied without regard to race, creed, color, gender, religion, or national origin.

(e) For purposes of this section, an alien who, at the time he or she applies for, receives, or attempts to receive a parole benefit specified in subsection (a), is eligible for those benefits if he or she meets all of the conditions of subparagraphs (1), (2), (3), and (4) below:

(1) Has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent of the alien consented to, or acquiesced in, such battery or cruelty; or has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent of the alien, without the active participation of the alien in the battery or cruelty, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent consented to or acquiesced in such battery or cruelty.

(2) In the opinion of the Attorney General of the United States, which opinion is not subject to the review of any court, there is a substantial connection between such battery or cruelty and the need for the benefits provided.

(3) Has been approved or has a petition pending which sets forth a prima facie case, as enumerated in the Immigration and Nationality Act (INA), for:

(A) Status as a spouse or registered domestic partner or child of a United States citizen; or

(B) Suspension of deportation and adjustment of status; or

(C) Classification pursuant to clause (ii) or clause (iii) of Section 204(a)(1)(B) of the INA.

(D) Cancellation of removal pursuant to Section 240A(b)(2) of the INA.

(4) For the period for which the benefits are sought, the individual responsible for the battery or cruelty, as stated in paragraph (e)(1) does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

NOTE: Authority cited: Section 5058, Penal Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Section 297.5, Family Code; and Section 5054, Penal Code.

HISTORY:

1. Change without regulatory effect renumbering former article 2 to new article 11 (section 3630) and renumbering former section 3815 to new section 3630 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 12. Parolee Field Files [Reserved]

3640. Parolee Field Files. [Reserved]

Article 13. Registration [Reserved]

3650. Registration Notification. [Reserved]

3651. Penal Code Section 186.30 Registrants. [Reserved]

3652. Penal Code Section 290 Registrants. [Reserved]

3652.1. Placement Restrictions For Penal Code Section 290 Registrants. [Reserved]

3653. Penal Code Section 457.1 Registrants. [Reserved]

3654. Health and Safety Code Section 11590 Registrants. [Reserved]

Article 14. Hormonal Chemical Treatment for Sex Offenders [Reserved]

3700. Medroxyprogesterone Acetate Treatment Program. [Reserved]

3701. Medroxyprogesterone Acetate Treatment Advisory Board. [Reserved]

3702. First Conviction of a Qualifying Offense. [Reserved]

3703. Second Conviction of a Qualifying Offense. [Reserved]

3704. Qualifying Offenses. [Reserved]

3705. Beginning Treatment. [Reserved]

3706. Alternative to Medroxyprogesterone Acetate Treatment. [Reserved]

3707. Administration of Medroxyprogesterone Acetate Treatment Program. [Reserved]

Article 15. Discharge [Reserved]

3720. Discharge Reviews. [Reserved]

3721. Discharge Review Reports. [Reserved]

3721.1. Documenting the Discharge Review. [Reserved]

3722. Annual Discharge Review Reports. [Reserved]

3723. Parolee Rights. [Reserved]

Article 16. [Reserved]

3730. [Reserved]

Article 17. Revocation or Limited Placement Releases

3740. Release from Revocation or Limited Placement.

Upon a parolee's release from local custody, their assigned parole agent shall assist the parolee to return to their previous parole program or to develop a new program.

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

HISTORY:

1. Change without regulatory effect adding article 17 (section 3740) and renumbering former section 3605.5 to new section 3740 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

Article 18. Parole Holds [Reserved]

3750. Authority to Place a Parole Hold. [Reserved]

3751. Criteria for Placement of a Parole Hold. [Reserved]

3752. Factors to be Considered. [Reserved]

3753. Review of a Parole Hold. [Reserved]

3754. Reasons for a Parole Hold. [Reserved]

3755. Transfer to Prison. [Reserved]

3756. Length of a Parole Hold. [Reserved]

Article 19. Parole Violations and Reports [Reserved]

3760. General. [Reserved]

3761. Reportable Information. [Reserved]

3762. Reportable Information for Sex Offenders Undergoing Chemical Treatment. [Reserved]

3763. Investigation. [Reserved]

3764. Parole Violation Report. [Reserved]

3765. Supplemental Parole Violation Reports. [Reserved]

3766. Recommendations. [Reserved]

Article 20. Revocation Proceedings [Reserved]

3770. General. [Reserved]

3771. Revocation Period. [Reserved]

3772. Division of Adult Parole Operations Review. [Reserved]

3801. Special Requirements of Civil Addict Release or Parole.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3151 and 3201(c), Welfare and Institutions Code; and Section 5054, Penal Code.

HISTORY:

1. New section filed 10-15-93; operative 11-15-93 (Register 93, No. 42).
2. Change without regulatory effect renumbering former section 3801 to new section 3620 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3802. Civil Addict Program Exclusion.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 3053, Welfare and Institutions Code; and Section 5054, Penal Code.

HISTORY:

1. New section deemed approved pursuant to Government Code section 11349.3(a) 11-3-93; filed 11-5-93; operative 12-3-93 (Register 93, No. 45).
2. Change without regulatory effect renumbering former section 3802 to new section 3625 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

3815. Limitations of Parole Services.

NOTE: Authority cited: Section 5058, Penal Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Section 297.5, Family Code; and Section 5054, Penal Code.

HISTORY:

1. New article 2 (section 3815) and section filed 10-28-97; operative 11-27-97 (Register 97, No. 44).
2. Amendment of subsections (e)(1) and (e)(3)(A) and amendment of Note filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).
3. Change without regulatory effect renumbering former article 2 to article 11 and renumbering former section 3815 to new section 3630 filed 7-30-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 31).

SUBCHAPTER 7. PAROLE HEARINGS DIVISION

Article 1. Public Attendance at Parole Hearings

3901.1.1. Visitors and Observers at Parole Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section Penal Code; and section 11120, Government Code.

HISTORY:

1. New subchapter 7, article 1 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 1 (Sections 3901.1.1–3901.1.2) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).
3. Change without regulatory effect repealing subchapter 7 (Sections 3901.1.1–3901.35.2) filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.1.2. Media Representatives Attendance at Parole Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code; and section 11126, Government Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 2. Parole Hearing Panel Decisions

3901.3.1. Effective Date and Review of Parole Hearing Panel Decisions.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:

1. New article 2 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 2 (section 3901.3.1) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 3. Parole Hearings Division Appeals

3901.5.1. Parole Hearing Appeal Procedures.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New article 3 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 3 (Sections 3901.5.1–3901.5.6) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.5.2. General Grounds for Parole Hearing Appeals.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.5.3. Filing a Parole Hearing Appeal.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.5.4. Parole Hearings Division Appeals Unit Decisions.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.5.5. Attorney Determination Appeals.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.5.6. Expedited Parole Hearing Division Appeals.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 4. Multijurisdiction Regulations

3901.7.1. Application of Regulations to Multijurisdiction Prisoners and Parolees.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New article 4 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.7.2. Determination of Multijurisdiction Status.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.7.3. Appeals for Multijurisdiction Prisoners and Parolees.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.7.4. Appeals Coordinator Designation.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

Article 5. Length and Conditions of Parole

3901.9.1. Department Responsibilities.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 5077, Penal Code.

HISTORY:
1. New article 5 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 5 (Sections 3901.9.1–3901.9.6) and section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.9.2. Notice of Parole.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, 3060, and 5077, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).

2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.9.3. General Conditions of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3060, 3060.5, and 12020, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.9.4. Special Conditions of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 290 and 457.1, Penal Code; and section 11590, Health and Safety Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.9.5. Waiver of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3000, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.9.6. Length of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3000, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 6. Reconsideration of Length and/or Conditions of Parole

3901.11.1. Filing for Reconsideration of Length and/or Conditions of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 5077, Penal Code.

HISTORY:
1. New article 6 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 6 (Section 3901.11.1) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 7. Discharge

3901.13.1. Discharge Review.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 3001, Penal Code.

HISTORY:
1. New article 7 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 7 (Sections 3901.13.1–3901.13.3) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.13.2. Early Discharge.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 2000, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.13.3. Statutory Discharge.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3000, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 8. Multijurisdictional Regulations

3901.15.1. Conditions of Multijurisdiction Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New article 8 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 8 (Sections 3901.15.1–3901.15.5) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.15.2. Reconsideration of Multijurisdiction Length and Conditions of Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.15.3. Filing the Request for Multijurisdiction Reconsideration.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 3 (Sections 3901.5.1–3901.5.6) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.15.4. Submitting Multijurisdiction Reconsideration Request.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.15.5. Right to Multijurisdiction Appeal.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 9. Parole Hold Policy

3901.17.1. Authority to Place Parole Hold.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 11175, Penal Code.

HISTORY:
1. New article 9 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 9 (Sections 3901.17.1–3901.17.7) and section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.17.2. Criteria for Placement of Parole Hold.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.17.3. Parole Hold Considerations.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.17.4. Review of a Parole Hold.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.17.5. Reasons for Parole Hold.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.17.6. Return to Prison.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.17.7. Length of Parole Hold.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 10. Parole Violations and Reports

3901.19.1. Parole Violation Authority.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:
1. New article 10 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 10 (Sections 3901.19.1–3901.19.6) and section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.19.2. Behavior to Be Reported.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45; Sections 295–300.3, Penal Code. Reference: Sections 295–300.3, 3000, 3056, 3057 and 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Amendment of subsection (a)(8) and amendment of Note filed 9-20-99 as an emergency; operative 9-20-99 (Register 99, No. 39). Pursuant to Penal Code section 5058(e) a Certificate of Compliance must be transmitted to OAL by 2-28-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-20-99 order transmitted to OAL 1-14-2000 and filed 2-22-2000 (Register 2000, No. 8).
4. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.19.3. Investigation of Parole Violations.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.19.4. Parole Violation Report.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000 and 3056, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.19.5. Supplemental Parole Violation Reports.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3063, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.19.6. Parole Violation Recommendations.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, 3060, and 3060.5, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

Article 11. Revocation Proceedings

3901.21.1. Location of Revocation Hearings.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:
1. New article 11 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.2. Revocation Period.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, and 3057, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.3. Parole and Community Services Division Review.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.21.4. Central Office Calendar.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, and 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.5. Parole and Community Services Division Regional Hearing Coordinator Notification.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code; and *Gagnon* v. *Scarpelli,* 411 US 778 (1973).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.6. Central Office Hearing Coordinator Notification.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code; and *Gagnon* v. *Scarpelli,* 411 US 778 (1973).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.7. Revocation Process Time Limits.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, and 3060, Penal Code; and *Morrissey* v. *Brewer*, 408 US 471 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.8. Waiver of Hearing.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, and 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.9. Prehearing Procedures.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, and 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).

2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.10. Parolee Rights and Responsibilities at Revocation and Revocation Extension Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3042, 3063.5, and 3063.6, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.11. Prerevocation Proceedings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3000, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.12. Revocation Hearing Procedures.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3063.5, and 3063.6, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.13. Parole Revocation Hearing Disposition.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3056, 3057, 3060, and 3060.5, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.14. Time in Custody.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.15. Time in Custody for Psychiatric Treatment.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.16. Disposition of Holds at Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.21.17. Revoked Parolees with New Commitments.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3000, 3001, and 3057, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 12. Revocation and Revocation Extension Hearings Evidence

3901.23.1. Admissible Evidence in Revocation and Revocation Extension Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:

1. New article 12 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 6).
2. Change without regulatory effect repealing article 12 (Sections 3901.23.1–3901.23.4) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.23.2. Documentary Evidence in Revocation and Revocation Extension Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, Sec. 45. Reference: Sections 3056 and 3057, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.23.3. Physical Evidence in Revocation and Revocation Extension Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3056, 3057, and 3060, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.23.4. Witnesses in Revocation and Revocation Extension Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: *Morrissey* v. *Brewer* 408 US 471 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 13. Subpoenas to Parole Revocation and Revocation Extension Hearings

3901.25.1. Issuance of Subpoenas.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll,* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New article 13 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 13 (Sections 3901.25.1–3901.25.8) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.2. Request for Subpoenas.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.3. Criteria for Issuance of Subpoenas.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.4. Service of Subpoenas.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1979).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.5. Witness Obligation to Comply with Subpoenas.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.6. Quashing of a Subpoena.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.7. Subpoena Authority.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.25.8. Subpoena-Related Appeals.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 5058.5, Penal Code; and *In re Carroll* 80 Cal.App. 3d 22 (1978).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 14. Attorney Assistance at Hearings

3901.27.1. Attorney Assistance During Hearings.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New article 14 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 14 (Sections 3901.27.1–3901.27.12) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.2. Request for an Attorney.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.3. Basic Test of Need for Attorney.
Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.4. Presumption of Need for Attorney.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.5. Ability to Speak for Self.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.6. Preliminary and Final Hearings.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.7. Information Considered.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.8. Decision for Attorney Assistance.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.9. Indigent Prisoner or Parolee.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.10. Attorney Selection.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.11. Hearing Panel Designation.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.27.12. Attorney Assistance Appeals.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057 and 3060, Penal Code; and *Gagnon* v. *Scarpelli* 411 US 778 (1972).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 15. Warrants of Arrest

3901.29.1. Authority to Issue Warrants.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New article 15 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 15 (Sections 3901.29.1–3901.29.5) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.29.2. Warrants Based on Parole and Community Services Division Request.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.29.3. Emergency Actions to Issue Warrants (Off-Duty Hours).

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.29.4. Recall of Warrant.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.29.5. State and National Warrant Systems.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3060, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 16. Multijurisdiction Regulations

3901.31.1. Application of This Article.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057, 3059, 3060, and 3064, Penal Code.

HISTORY:
1. New article 16 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 16 (Sections 3901.31.1–3901.31.4) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.31.2. Absconders from California.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057, 3059, 3060, and 3064, Penal Code; and *In re Shapiro* 14 Cal. App. 3d 711 (1975).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.31.3. Multijurisdiction Parolees Who Abscond.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057, 3059, 3060, and 3064, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.31.4. Revocation of Multijurisdictional Parolees.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 3057, 3059, 3060 and 3064, Penal Code; and *In re Shapiro* 14 Cal.App. 3d 711 (1975).

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 17. Parole Revocation Extension Procedures

3901.33.1. Parole Revocation Maximum Term.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:
1. New article 17 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 17 (Sections 3901.33.1–3901.33.3) and repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.33.2. Release to Parole.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

3901.33.3. Parole Violation Extension Procedures.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:
1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 4-15-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 16).

Article 18. Worktime Credits

3901.35.1. Worktime Credits.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: Sections 2931, 2932, 2933, and 3057, Penal Code.

HISTORY:
1. New article 18 and section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing article 18 (Sections 3901.35.1–3901.35.2) and section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).

3901.35.2. Non-Eligibility for Worktime Credits.

Repealed.

NOTE: Authority cited: Stats. 1992, ch. 695, sec. 45. Reference: section 3057, Penal Code.

HISTORY:

1. New section filed 9-3-93; operative 9-3-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 36).
2. Change without regulatory effect repealing section filed 7-8-2003 pursuant to section 100, Title 1, California Code of Regulations (Register 2003, No. 28).