



Department of Corrections and Rehabilitation
NOTICE OF CHANGE
TO DEPARTMENT OPERATIONS MANUAL
Chapter 1, Article 6,
Regulation and Policy Directives

Transmittal Letter Number:

15-23

Revision Date:

December 21, 2015

The purpose of this document is to provide all Department Operations Manual (DOM) holders with information regarding the attached amendment to Chapter 1, Article 6, Regulation and Policy Directives.

Section 12010.17 of Chapter 1, Article 6, is deleted in its entirety as this policy is outdated. This section included notice requirements concerning updates to the Board of Parole Hearing's (BPH) regulations, and also described the Department's role in ensuring that BPH regulations were available at each institution and the various parole regions. The BPH is responsible for regulations in Division 2 of Title 15. Division 2 of Title 15 is part of the required legal documents that are provided to inmates in the collection of legal resources in institution libraries.

In 2011, the Governor signed into law Assembly Bill (AB) 109, Budget Act of 2011: Public Safety Realignment, which made significant changes to California corrections in regards to low-level offenders, and the parole revocation process. Public Safety Realignment shifted responsibility for people convicted of certain non-serious, non-violent or non-sex felony offenses from state prisons and parole to county jail and probation. In addition, any subsequent county probation revocation proceedings are carried out at the local level. Public Safety Realignment also amended statute concerning the parole revocation process for a majority of the offenders currently housed in state prisons. As of July 1, 2013, jurisdiction for parole revocation proceedings for a majority of cases was transferred from BPH at the state level to the superior courts at the local level.

BPH requested the Department update multiple DOM policies to reflect current statute concerning BPH as it relates to parole revocation proceedings, and to make other specified revisions to references to BPH policy as appropriate.

Please inform all persons concerned of the contents of this notice, which shall remain in effect until it is incorporated into the next edition of the DOM. If you have any questions concerning this revision, please contact me at (916) 445-2269.

Original signed by:

TIMOTHY M. LOCKWOOD
Chief
Regulation and Policy Management Branch

ARTICLE 6—REGULATION AND POLICY DIRECTIVES

Revised December 21, 2015

12010.1 Policy

All divisions, institutions, camps, parole regions, community based correctional centers, and other departmental offices shall be promptly notified of changes in departmental regulations, Department operational policy, forms, and other matters of importance.

Changes to the regulations, the Department Operations Manual (DOM), bulletins, or forms shall not be processed without review by Department stakeholders and written authorization of the Secretary or designee.

12010.2 Purpose

This article describes the regulations, DOM policy, bulletins, and forms utilized to transmit departmental rules and operational directives, and establishes procedures for their development, review and approval, promulgation, distribution, and archiving. The process and procedures described here are intended to:

1. Allow Department stakeholders to have input on regulation and DOM development.
2. Define program responsibilities for the content and updating of regulations and DOM policy.
3. Ensure regulations (Title 15) meet and are adopted according to statutory standards and the public process described in the Administrative Procedure Act (APA) (Government Code 11340, et seq.).
4. Ensure revisions to DOM policies are developed and reviewed to meet standards for clarity and reference appropriate legal authorities and standards.
5. Set a priority for deliberate and timely regulation and DOM development, review, approval, and dissemination.
6. Provide that regulation and policy directives are available to staff and others who may request them.

12010.3 Regulation and Policy Directives

Only the directives listed below shall be used to document and announce official Department regulations, operational policy, and procedures:

- California Code of Regulations (CCR) (Title 15, Division 3). These are also called the Department's Rules. The specifications for the CCR are administered and overseen by the Office of Administrative Law (OAL), the State control agency for regulations and rulemaking for all State agencies.
- DOM.
- Bulletins.
 - Administrative Bulletin (AB), CDCR Form 1184.
 - Restricted Administrative Bulletin (RAB), CDCR Form 1184-A.
 - Informational Bulletin (IB), CDCR Form 1185.
 - Restricted Informational Bulletin (RIB), CDCR Form 1185-A.
 - Instructional Memorandum (IM), CDCR Form 1187.
- Notices.
 - Notice of Change to Regulations (NCR), CDCR Form 1189.
 - Notice of Change to DOM (NCDOM), CDCR Form 1189-A.
 - Restricted Transmittal Letter (REST), CDCR Form 1189-R.
- Forms. Only those forms that are approved for use, and on record in the official forms catalog maintained by the Department Forms Coordinator, shall be used to document and announce official Department regulations, operational policy, and procedures.

12010.4 Availability

All regulation and policy directives are public records which shall be made available to employees, volunteers, inmates, parolees, other governmental agencies, and the public unless specifically exempt pursuant to Government Code (GC) 6254 and Penal Code (PC) 5058(c)(1)(B).

Employees, parolees, and the general public may access all or any portion of the DOM or CCR in electronic form on the Department's intranet or internet websites as well as other Department directives, which are not exempt from disclosure.

The public may purchase copies of regulations, policy documents, and other public records, pursuant to the Public Records Act (GC 6250 et seq.). Cost is determined by the current rate as identified CCR Section 3260.1, Public Records Duplication Services, and in DOM Chapter 1, Article 16, Public Records.

With the exception of inmate law libraries, no office is required to maintain the DOM, CCR, or other directive for the sole purpose of making it available for inspection. Any current copy of existing directives is adequate for public inspection.

Sections in DOM 55000 are classified as "Restricted" per GC 6254(f) and PC 5058(c)(1)(B), and specifically exempt from disclosure to persons other than employees with a need-to-know. "Restricted" sections shall not be made available to inmates, parolees, the general public, or staff that have not been assigned a copy of the Restricted DOM (R-DOM) or do not have a need-to-know.

12010.5 Responsibility for Revision of Regulation and Policy (DOM) Directives

The Director, Assistant Secretary, Deputy Director, Chief, or other executive designated in each article of DOM, under the "Revisions" section, shall ensure the DOM article is revised and updated as necessary. Each CCR (Title 15) section is the responsibility of the Director, Assistant Secretary, Deputy Director, Chief, or other executive whose functional area administers the specific rule.

Revision Requests

Directors, Assistant Secretaries, Deputy Directors, Chiefs, or other executives may initiate changes to the regulation sections and/or DOM articles for which they are responsible by forwarding a request to the Chief, Regulation and Policy Management Branch (RPMB), as follows:

Regulations

- Sections affected.
- A statement of the purpose, reasons, or justification for change.
 - Pursuant to Government Code 11346.2, proposed regulation changes, amendments, and repeals shall include an Initial Statement of Reason (ISOR) describing in detail the purpose, reasons, causes, and/or goals behind the changes, and any study, report, or data that support the proposed changes.
- Specified text change in underline (added text)/strikethrough (deleted text) format. (NOTE: text revised in Microsoft Word “Track Changes” format will not be accepted. Use of the Track Changes function potentially eliminates existing text, which must be preserved/shown when revising regulatory or policy text language.)
- The estimated fiscal impact of the change, if any. A STD. Form 399, Economic and Fiscal Impact Statement, must be completed, as well as a CDCR Form 1150, Fiscal Analysis Worksheet.
- All necessary references concerning the change.
 - State or federal law change, court agreement, legal settlement or decision, operational need, changes to regulations of other departments, etc.
- Name and telephone number of the lead program person/project manager to contact concerning the proposed revision.
- Authorization of the Director, Assistant Secretary, Deputy Director, Chief, or other Department executive over the functional area.

DOM

- Sections affected.
- A statement of the purpose, reasons, or justification for change.
- Specified text change in underline (added text)/strikethrough (deleted text) format. (NOTE: revisions in Microsoft Word “Track Changes” format will not be accepted. Use of the Track Changes function potentially eliminates existing text, which must be preserved/shown when revising regulatory or policy text language.)
- The estimated fiscal impact of the change, if any. A CDCR Form 1150, Fiscal Analysis Worksheet must be completed.
- All necessary references concerning the change.
 - State or federal law change, court agreement, legal settlement or decision, operational need, changes to regulations of other departments, etc.
- Name and telephone number of the lead program person/project manager to contact concerning the proposed revision.
- Authorization of the Director, Assistant Secretary, Deputy Director, Chief, or other Department executive over the functional area.

12010.5.1 Preparation of CCR Revisions

Rule revisions, with the necessary documents for filing with the State control agency over regulations, OAL, shall be developed by RPMB utilizing the revision request and in cooperation with staff from the responsible originating program/division/unit. The originating program/division/unit shall route the revision documents to their Director, Assistant Secretary, Deputy Director, Chief, or other executive, for final review and approval before submitting to RPMB.

Upon approval of the proposed regulations by the originating Director, Assistant Secretary, Deputy Director, Chief, or other executive, and after completion of stakeholder reviews, RPMB shall route the executive approval folder to the Secretary, or the appropriate rulemaking delegate of the Secretary on file with the OAL, for approval to submit regulations for public notice and comment.

12010.5.2 Revision Time Constraints and Stakeholder Reviews

Upon receipt of a revision request, RPMB shall log the document in and assign a project number and RPMB staff member. The time required to formulate regulations and policy, and review the draft directive from program shall be governed by the following constraints:

Regulations and DOM

- RPMB: Within approximately four weeks from receipt of requested revision from program, shall perform a thorough review and produce the final draft regulation or policy directive. The time frame it takes RPMB to produce the final documents is dependent on factors such as the completeness of the original revision request and participation/cooperation from the originating program. The RPMB will also complete a Regulatory Impact Determination and analysis for DOM and Form revisions.
- Director or executive submitting the policy/regulation change: Coordinates stakeholder vetting and review, allowing one day to four weeks for stakeholder review, depending on project priority. The RPMB will coordinate stakeholder review for the responsible program upon request. If the responsible program of the revision has not already completed a review by Department stakeholders, a memorandum shall be completed and forwarded by RPMB to the appropriate stakeholder programs informing them that RPMB has reviewed the document and requests their review and decision on behalf of the responsible program.

Stakeholder Reviews

The following three stakeholder review/vetting timeframes shall be used:

- Level 1. Immediate – One to five days for review and decision by Department stakeholders. Level 1 review shall be used only when the Department must meet external time constraints (e.g., Court deadline, Legislative Mandate, Governor’s Executive Order) and only when authorized by Department executive management.
- Level 2. Priority – Two calendar weeks for stakeholder review and decision.
- Level 3. Standard – Three to four calendar weeks for stakeholder review and decision.

A Department stakeholder may choose to decline a request to participate in the stakeholder review process if they determine that there will be no impact (either positively or negatively) from the regulation or DOM policy change. The decision to decline shall be documented and retained within the rulemaking or DOM project file. The same stakeholder review/vetting timeframes used for proposed regulation and DOM revisions shall also apply to stakeholders reviewing proposed revisions to the R-DOM (Section 55000). At the request of any Director, Assistant Secretary,

Deputy Director, Chief, or designee, they shall be provided an opportunity to review the final version of the draft before it is forwarded for final approval and signature by the Secretary or their authorized delegate.

Stakeholder Non-Response and Assumed Concurrence

Stakeholders who do not return a decision by the requested reply date shall be provided one reminder with a request for an alternate completion date. If the attempt to obtain a stakeholder decision fails, the program initiating the policy/regulation change and stakeholder reviews may “assume concurrence” for the non-responding stakeholder, note this in the regulation or DOM project package, and forward the package for final executive management review and approval. If the non-responding stakeholder subsequently raises an objection after “assumed concurrence,” they must raise the objection with the Director, Assistant Secretary, Deputy Director, Chief, or other executive that initiated the regulation or policy change, and also explain the reason(s) for not meeting the review due date and not requesting an extension.

Resolving Stakeholder Disagreements

It is the prerogative of the responsible program that initiated the regulation or DOM revision to accept or decline any suggested or recommended changes to the proposed text offered by Department stakeholders. If necessary, the responsible program shall contact Department stakeholders who have provided the changes, and negotiate an agreed upon text. If concurrence on the regulation or DOM revision cannot be reached among the Department stakeholders and the responsible program that initiated the change, the outstanding issues shall be raised in writing or in a decision meeting with the Undersecretary or equivalent executive over the responsible program that initiated the change.

After Stakeholder Review

- Following each review and return of the vetting/coordination documents to RPMB, the following time frames shall apply:
- RPMB Analyst: Two weeks to modify, if necessary, or finalize the regulation or DOM policy document. The RPMB reviewer/analyst shall discuss any proposal for a substantial change to the draft, if any, with the originating program and shall note the result of such discussion.
- Chief, RPMB: Maximum one week for review and approval. The Chief shall then have the assigned RPMB analyst forward the regulation or DOM package for final executive review and approval.
- Undersecretary, Director, Assistant Secretary, Deputy Director, Chief, or designee with program responsibility: Two weeks for review and decision/approval.

Regulations

After clearing stakeholder reviews and executive approval from the Secretary or authorized rulemaking delegate on file with OAL, the RPMB shall prepare in cooperation with the originating program and the requirements of the APA, the required documents to submit to OAL, including the regulation text, Notice of Proposed Regulations, Economic and Fiscal Impact Statement, and the Initial Statement of Reasons (ISOR). The ISOR shall include an explanation for the regulation changes and any fiscal impacts as outlined in Section 12010.5 above. The submitting program shall be advised of the anticipated completion date.

DOM

After clearing stakeholder reviews and proper executive approval, the RPMB shall prepare the final NCDOM documents and publish to California Department of Corrections and Rehabilitation (CDCR) intranet/internet and distribute accordingly to CDCR staff electronically.

12010.6 CCR – Department Rules (Title 15)

The CCR contains the Department’s regulations that are codified in Title 15, of the CCR. Division 3 of Title 15 governs Adult Institutions, Programs, and Parole. Properly adopted regulations have the force of law.

Regulatory Tests

A departmental rule, order, or standard of general application is considered a regulation if it meets one or more of the following tests:

- Implements, interprets, or makes specific the provisions of statute, case law, or regulations of controlling agencies.
- Is a mandate and applies equally to all inmates, parolees, and the public in similar situations.
- Imposes a standard of required behavior with stated or implied consequences for noncompliance.
- Imposes requirements which shall be met to qualify for any general entitlement or privilege available to inmates, parolees, or the public.
- Imposes criteria which govern staff decisions affecting inmate custody, discipline, classification, programming, release date, visiting, transfer, etc. or affect the terms or conditions of parole.
- Mandates fair and prompt staff response (due process) or entitlement (rights).

Underground Regulations

Rules, orders, or standards of general application that meet the definition of a regulation and that are being enforced by a State agency without first being adopted into the CCR are commonly called “underground regulations” and may be determined invalid by a court. State law prohibits departments from issuing and enforcing rules of general application without first adopting them into regulations: “No State agency shall utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule which is a regulation as defined in Government Code Section 11342.600 unless it has been adopted as a regulation and filed with the Secretary of State” (Government Code 11340.5).

12010.7 Issuance of Printed Publication of CCR

The CCR shall be issued to the below-specified persons at the designated places:

- New correctional officers and parole agents, by the academy.
- Other new employees without access to the on-line electronic version, by their assigned institution or office where hired and prior to assuming regular duties.
- Volunteers and contractors, by their designated institution or headquarters office.
- Inmates, within 14 days of reception by the Department. The inmate shall sign a Document Receipt, CDC Form 128-O. The completed form shall be placed in the inmate’s central file (C-File).
- Parolees, including those confined in county facilities pending Board action, court action, or return to prison may request a copy from their assigned DAPO parole office.

- Any State agencies and Legislators, by the RPMB upon request.

Published Regulation Revisions

Institutions and all other facilities which house State adult inmates under the jurisdiction of the Department shall make available published rule revisions to inmates as soon as practical, but not later than ten working days, following receipt of the revisions.

DAPO parole offices shall make a copy available for parolees to examine. If a parolee requests a copy, they may purchase an up-to-date copy of the CCR from RPMB by the procedures outlined in DOM Subsection 12010.10, below.

12010.8 Rules Coordinator Responsibilities

For each institution, a custodial officer at the level of Correctional Counselor II/Lieutenant or above shall be designated as the Rules Coordinator.

For each parole region, the regional training coordinator shall be designated as the Rules Coordinator.

For Central Office and all other departmental offices, the Chief, RPMB, shall be the designated Rules Coordinator.

For DAPO headquarters, the Parole Agent III in charge of the Policy and Procedures Unit shall be the designated Rules Coordinator and will work with the Chief, RPMB, on those matters pertaining to DAPO.

The position designated as the Rules Coordinator shall be submitted to the RPMB whenever there is a change in designation.

Rules Coordinators or a designee, (e.g., Public Information Officer, Warehouse Manager, etc.) shall coordinate the ordering, receipt, storage, and distribution of the CCR in the institutions, parole regions, or departmental offices. The institution Rules Coordinators shall ensure sufficient copies of regulation revisions (NCRs) are copied for posting for all institutional staff and all inmates. The DAPO headquarters and parole region Rules Coordinators shall ensure sufficient copies of revisions are copied for posting for all parole staff and available for parolees to review.

Prior to the bulk shipment of an updated printed Title 15, the RPMB shall advise each Rules Coordinator of the estimated shipping date. Each Rules Coordinator shall:

- Arrange for distribution within five working days after receipt.
- Arrange for storage of copies needed for future issue.

Inquiries regarding shipment, quantity, or distribution of the CCR shall be made by the Rules Coordinator to the Chief, RPMB.

12010.9 Ordering CCR

The RPMB shall submit a formal reminder (memorandum) along with an order form, to: Wardens, Executive Staff, Undersecretaries, Directors, and the Chief Training Officer that it is time to submit their annual order for printed CCRs. The Rules Coordinators shall estimate the number of CCRs required for issue to inmates and staff for an annual supply. CDCR staff with access to the Title 15 electronically via the intranet/internet shall not be included in the annual order unless there is a compelling reason submitted for the need for a printed copy. The order form transmitted by the RPMB shall be completed and returned to the RPMB by the Rules Coordinator, which shall constitute the order for that facility.

12010.10 Replacement CCR/Copies for General Public

Inmates or parolees who have lost, misplaced, or not maintained their issued copy of the CCR, and the general public who desire a copy of the CCR, may purchase the most recent printed edition of the CCR by submitting a check or money order made payable to "State of California" with their request for CCR, Division 3, Title 15, to the RPMB. (Price is determined by cost per copy of latest available edition, plus mailing, and availability is limited.) Employees and the general public can access the Title 15 via the Department's intranet and internet websites respectively.

12010.11 Rules in Spanish

A Spanish language version of the CCR shall be made available for review by those Spanish-speaking inmates who cannot read English. Inmates shall not be issued personal copies of the CCR in Spanish.

A minimum of one copy of the CCR in Spanish shall be maintained at:

- Reception centers.
- Institutions.
- Community based correctional centers.
- Reentry facilities.
- Regional parole offices.
- Inmate law libraries.

Once the newest annual CCR, Title 15 is available in English, the RPMB shall arrange for the translation to be incorporated into the next annual Spanish CCR edition.

12010.12 Proposed Changes to CCR

A change to the CCR may be proposed through the chain-of-command to the affected Director, Assistant Secretary, Deputy Director, or Chief, by any employee.

The change requires approval of the Director, Assistant Secretary, Deputy Director, or Chief of the division or unit responsible for administering the rule revision material. The Secretary, or their authorized rulemaking delegate's approval and signature is required on all regulations submitted to the OAL.

An inmate, parolee, or member of the general public may submit a petition for change to the Director, Assistant Secretary, Deputy Director, or Chief administratively responsible for the area of desired change in accordance with Government Code 11340.6.

No special format is required for submitting a proposed revision; however, the proposed revision shall meet APA standards for regulations, which are:

- "Necessity"; there is a substantial need for the regulation as proposed.
- "Authority"; there is an existing statutory provision which permits or obligates the Department to adopt, amend, or repeal the regulation as proposed.
- "Clarity"; the regulation as proposed will be easily understood by those affected.
- "Consistency"; the regulation as proposed does not conflict with or contradict any existing statutes, court decisions, or other provision of law.
- "Reference"; there is a statute, court decision, or other provision of law which the Department will be implementing, interpreting, or making specific by adopting, amending, or repealing the regulation as proposed.

"Nonduplication"; the regulation as proposed does not simply repeat or serve the same purpose as an existing law or regulation.

12010.12.1 Notice of Proposed Regulations (Notice), Notice of Change to Regulations (NCR), - Public Notice, Posting, and Certification of Posting

At least 45 days prior to a public hearing on proposed regulation changes, a Notice shall be published in the California Regulatory Notice Register and shall be mailed to interested persons on the RPMB mailing list. The Notice shall also be posted on the Department's intranet and internet websites.

Any interested person is invited to submit written or electronic mail comments regarding proposed rule revisions to the RPMB.

At the same time the Notice of the Department's proposed regulatory change is submitted to the OAL, the Notice along with the NCR shall be prepared and e-mailed to the Rules Coordinator at each institution and parole region who shall:

- Post/issue the Notice and NCR. Such notices shall be posted in the institutions, parole offices, and facilities where inmates/parolees can view them.
- Institution Rules Coordinators shall complete a Certification of Posting, CDCR Form 621-A, and ensure it is forwarded to the RPMB within 10 calendar days of receipt.

GC 11346.4 requires that at least 45 days prior to the hearing and close of the public comment period on the adoption, amendment, or repeal of a regulation, notice of the action shall be mailed to interested persons.

12010.12.2 Posting Requirements

The NCR shall be posted by the Rules Coordinator or designee and made available for inspection by all inmates and staff within five calendar days after receipt of the Notice. Penal Code 5058(a) establishes a duty for the Department to post copies of regulation changes in conspicuous places.

Notices shall be:

- Posted on staff and inmate bulletin boards.
- Posted in inmate housing units, corridors, and other areas easily accessible to inmates.
- Provided to inmate advisory committees/councils.
- Provided to inmate law libraries.
- Provided to inmate prison health facilities.
- Provided to inmate security housing and specialized housing units.

All inmates and employees shall be provided the opportunity or means to be informed of and review the Notice.

NCRs may be removed once the public comment period on the Notice ends. A copy of the NCR shall be retained in the institution's records by the Rules Coordinator.

12010.12.3 Public Hearing/Written Comments

A public hearing may be scheduled at which time all interested persons may present comments regarding the proposed regulation revision.

Any interested person may also submit written or electronic mail comments to the Chief, RPMB, regarding a proposed revision. Written comments must be received by the Department and postmarked no later than the published close of the public comment period.

Oral presentations at the public hearing shall be recorded. The recordings and all written comments are retained by the RPMB as a public record in the rulemaking file for at least one year from the date the regulation is filed with the Secretary of State.

12010.12.4 Actions after Public Hearing-Rulemaking File

The rulemaking file is an accumulation of all the documents and material required pursuant to the APA, which include: recorded or transcribed verbal comments, all written comments received by the Department during the public comment period, departmental comments on the accommodation or non-acceptance of the received comments (which are included in the Final Statement of Reasons), an updated informative digest, and the proposed final text of the regulation.

In response to the public comments received, the Department may:

- Comprehensively redraft the proposed regulation and schedule another 45 day comment period;

- Modify language with sufficiently related changes to the originally proposed regulation text and provide a 15-day re-notice and comment period; or
- File with the OAL the originally proposed regulation text without change.

Substantial modifications to the originally proposed regulation text shall not occur unless the change is sufficiently related to the regulation subject matter that was originally filed with the OAL and as appeared in the public notice.

A copy of the final rulemaking file shall be sent to the OAL. Upon receipt of the file, OAL has 30 working days to examine the rulemaking file for compliance with the provisions of the APA and to compare the cited authority and references. If the rulemaking file complies with the APA, OAL certifies that the regulations were properly adopted and files the regulation with the Secretary of State. Upon receipt of a stamped copy of the regulation filed with the Secretary of State, the RPMB shall post the final rulemaking documents on the internet and the Department's intranet informing all concerned of the adoption of the regulation.

Except as provided for Emergency regulations which are filed pursuant to PC 5058.3, regulations or order of repeals filed with the Secretary of State are effective on a quarterly basis, unless the regulation falls within one of the exemptions listed in Government Code 11343.4(b).

12010.13 Department Operations Manual

Department Operations Manual (DOM) contains statewide policy and procedures for uniform operation of the Department and informs staff of the approved procedures for program operations. The DOM is published electronically and can be accessed via the Department's intranet and internet.

Restricted sections of the DOM (Section 55000) shall not be available for public review (see Section 12010.13.2 below).

12010.13.1 DOM Revisions

Each article of DOM has a "Revisions" subsection which identifies the Director, Assistant Secretary, Deputy Director, Chief, or other executive responsible for ensuring that the content in the article is accurate and up-to-date. The Director, Assistant Secretary, Deputy Director, Chief, or executive shall:

- Identify the need for and initiate a revision to DOM when necessary.
- Ensure other affected divisions are provided with an opportunity to review and comment on the proposed revision at the policy coordinator level. Upon request, the RPMB will assist with coordinating or "vetting" the proposed DOM revision with Department stakeholders.
- Incorporate the feedback from affected divisions and forward the completed proposed revision to the Chief, RPMB.

In completing this process, the RPMB will:

- Format, review, and analyze the proposed revision.
- Perform a Regulatory Impact Determination as needed to identify existing regulations that may need to be revised, or new regulation material contained in the proposed DOM policy that must be adopted before the DOM is implemented and enforced.
- Ensure necessary Director, Assistant Secretary, Deputy Director, or Chief level reviews are completed.
- Submit the proposed revision to the appropriate Director, Assistant Secretary, Deputy Director, Chief, or other responsible executive for final approval.
- Distribute the revision to the field and headquarters staff and post the information on the Department intranet and internet.
- Archive the project records and make them available for review by Department programs, legal staff, Attorney General's office, etc.

12010.13.2 DOM Subchapter 55000, Restricted DOM: "Issuance and Responsibilities of Holders"

The Restricted DOM (R-DOM), Subchapter 55000, shall be issued only to specific Department positions that require the knowledge and use of the restricted content in order to perform their position's duties and responsibilities (e.g., Watch Commander, Facility Captain, Associate Warden, Assistant Secretary, Director, etc.). Post Orders or job descriptions for those positions should reference responsibility for the R-DOM for accountability purposes. The R-DOM shall not be issued to individual persons but are issued to positions with a need for access to the information. Staff vacating a position that is authorized to have an R-DOM shall not remove the manual without the approval of the institution head and consent of the Chief, RPMB or the statewide R-DOM Coordinator. Staff in positions that have been issued an R-DOM are responsible for its updating when revisions are received, for its security and proper use. The R-DOM shall be secured in a locked cabinet and/or office when not being used. Contents of the R-DOM shall not be discussed in the presence of those who do not have a need-to-know, and copies of any portion of Subchapter 55000 shall not be made, emailed, or sent by FAX, unless authorized by specific restricted policy section(s) to do so (see DOM Chapter 4, Article 38, Electronic Mail, and "High Risk Confidential Information" in DOM Chapter 4, Article 45, Information Security). Violations of information security policies and procedures are subject to disciplinary action (see DOM Chapter 4, Article 45, Information Security). The R-DOM shall be viewed by CDCR employees on a need-to-know basis.

- Institutional/Parole region supplements to the R-DOM are not to be left unattended or in an office/work area that is not secured. They shall be maintained within the manual after the respective section being addressed.
- Transmittal Letters must be kept in numerical order and under the tab identified for transmittal letters.
- RABs must be kept in the front of the manual and in numerical order.
- The Revision Record to the R-DOM needs to be completed for every new addition or revision to policy that is incorporated into the R-DOM.
- The R-DOM shall be audited on an annual basis by the institutional or unit's DOM Coordinator to ensure it is updated and current.
- The institutional or unit R-DOM Coordinator shall acknowledge receipt of each newly published revision of the R-DOM and attest that all authorized copies have been properly updated and are securely maintained by completing and signing a CDCR Form 621-R, Employee Certification of Receipt of Confidential Material, and returning it to the statewide R-DOM Coordinator at RPMB.

Department Restricted DOM Coordinator

The R-DOM shall remain with the assigned position unless, or until, the manual is reissued to another position by the Hiring Authority and the Chief of RPMB and/or the Department R-DOM Coordinator in RPMB is notified. Prior to vacating a position for which the R-DOM has been

issued, the staff member shall return the R-DOM to the R-DOM Coordinator or the Administrative Assistant to the Warden or Parole Administrator.

The R-DOM master copy shall be maintained by the Department's R-DOM Coordinator assigned to the RPMB who oversees the secure development, approval, distribution, and records, of new and revised policy in Subchapter 55000. Any new policy and revision to current policy of the R-DOM shall be coordinated through the R-DOM Coordinator of the RPMB. Institutional/Parole region staff in need of current information/documents for their respective R-DOM(s) shall contact the R-DOM Coordinator to obtain those documents. The R-DOM Coordinator shall maintain a list of allocated R-DOMs for each Department institution, division, or office, authorized to hold the R-DOM, and update or revise that list as needed.

The R-DOM is a confidential document that is exempt from adoption as regulations (Penal Code 5058(c)(1)(B)) and is subject to the privilege for official information as described in Evidence Code (EC) 1040 and Government Code 6254(f). The R-DOM and its content are accordingly exempt from public disclosure.

Requests for a complete R-DOM shall be addressed to the Chief of the RPMB. The request shall include a justification for the need for the position to have an R-DOM and a statement that all R-DOM issued to the institution, division, or office will be updated, secured, and properly allocated.

Access to Subchapter 55000 by the California Correctional Peace Officers Association

An agreement between the CDCR and the California Correctional Peace Officers Association (CCPOA) allows CCPOA to have access to the DOM, Subchapter 55000, Restricted Procedures.

In order to resolve matters that may arise, the CDCR and the CCPOA agree that:

1. CDCR shall retain sole possession of that document known as the DOM Subchapter 55000.
2. CCPOA shall have access to DOM Subchapter 55000 (except Section 55030, Job Action Contingency Plan) in the following manner:
 - a) CDCR shall provide access to CCPOA representatives at both the institutional level and the headquarters level. Access shall be provided only on an appointment basis with a minimum of one hour's notice. It is understood that normally such appointment at the institutional level will occur within 24 hours of the request.
 - b) The access described above shall be available to the following CCPOA representatives:
 - 1) Local Chapter Presidents
 - 2) Local Chapter Vice-Presidents
 - 3) Chief Job Stewards
 - 4) CCPOA Field Representatives
 - 5) CCPOA Legal Staff
 - 6) CCPOA Chief Administrative Officer
 - 7) CCPOA Statewide President
 - 8) CCPOA Statewide Vice-Presidents
 - 9) A member of any CCPOA bargaining team

In addition to the above, any Bargaining Unit (BU) 6 member or his/her designated representative, upon request, may have access to DOM Subchapter 55000 (except Section 55030) when the BU 6 member is being investigated as to matters covered by Subchapter 55000 or has been disciplined with regard to matters covered by Subchapter 55000.

3. In no event shall more than three of these persons have access at one location at the same time.
4. Under no circumstances shall access include the right to photocopy any portion of DOM Subchapter 55000.
5. CDCR Chief of the Office of Labor Relations shall notify the Chief Administrative Officer of CCPOA in writing of any changes to DOM Subchapter 55000.

CDCR is committed to upholding its agreement of providing CCPOA with access to DOM Subchapter 55000. To carry out this commitment, the Chief of RPMB shall coordinate CCPOA inspection of DOM Subchapter 55000 at CDCR headquarters. The Employee Relations Officer (ERO) is the representative at the institutional level to coordinate the requests for access to DOM Subchapter 55000. Any requests to individuals other than the ERO will not be honored and the requestor will be referred to the ERO. The ERO will not maintain a copy of DOM Subchapter 55000 for the sole purpose of having it readily available for CCPOA to review. Instead the ERO shall coordinate the review of a copy of DOM Subchapter 55000 from a copy allocated to the institution. The ERO shall ensure, however, that prior to CCPOA reviewing DOM Subchapter 55000, that Section 55030 has been removed from the copy CCPOA will be reviewing.

The following procedures provide for statewide access by CCPOA to DOM Subchapter 55000 (except Section 55030):

The Chief of RPMB shall:

1. Maintain and control DOM Subchapter 55000.
2. Provide or coordinate the supervision of DOM Subchapter 55000 during any inspection by eligible CCPOA representatives or BU 6 members at the headquarters.

The Warden/Regional Parole Administrator shall:

1. Ensure that all requests from CCPOA representatives or BU 6 members for inspection of DOM Subchapter 55000 are processed through the ERO.

The ERO shall:

1. Arrange for the review of DOM Subchapter 55000.
2. Provide or coordinate the supervision of DOM Subchapter 55000 during any inspection by eligible CCPOA representatives or BU 6 members.
3. Document each time that DOM Subchapter 55000 is reviewed by an eligible CCPOA representative or BU 6 member as outlined above. The following information shall be recorded in the log book:

- a) Full name of person reviewing DOM Subchapter 55000.
- b) The position of the person reviewing DOM Subchapter 55000 (CCPOA affiliation) or rank of the BU 6 member.
- c) Date DOM Subchapter 55000 was reviewed.
- d) Time DOM Subchapter 55000 was reviewed.
- e) Signature of CCPOA representative/BU 6 member(s) reviewing DOM.
- f) The DOM section(s) reviewed.

12010.13.3 DOM Supplement Process

Policy

There may be a need at the facility/parole region level to clarify or supplement information in a section of the DOM. This need may arise from insufficient detailed information upon which to provide for day-to-day operation at the individual facility or parole office. When such need occurs, as determined by the Warden or Regional Parole Administrator, a DOM supplement shall be developed detailing the manual policy.

DOM supplements shall:

- Be brief and generally no more than two to four pages for any DOM article.
- Be attached to the applicable DOM article.
- Not create new policy.
- Clarify and not restrict, expand, or conflict with the DOM provisions.

Purpose

The purpose of this section is to provide a process by which facilities and parole regions shall clarify the DOM for local operational purposes.

12010.13.4 Supplements to the DOM

An operational supplement shall contain only specific information required for local day-to-day operation. It shall contain procedures required to accomplish the mandate of the DOM article. The DOM supplement could include such things as, who escorts certain groups of inmates within or from a specific housing assignment, or in which institution offices computers shall be located. Only when there is demonstrated need to add to the DOM article to provide for a specific local operational need as determined by the Warden of an institution or Regional Parole Administrator, shall a DOM supplement be used. DOM supplements shall be reviewed for policy compliance during the audit process. Supplements shall be in the same format as the DOM.

12010.13.5 Substantive Exemption to a Section of the DOM

It is the intent of the Department not to have substantive changes to requirements of the DOM in DOM supplements. However, on rare occasions there may be other mandates which require an exemption to some DOM provisions. Such mandated exemptions shall include court orders which affect only a particular facility's operation or a statutory requirement not required to be implemented statewide. Authorized pilot programs under Penal Code 5058.1 announced through an IM or AB may justify specific exemptions to regulations and/or DOM provisions.

When such an exemption is required for other than an authorized pilot program, a justification shall be submitted to the appropriate Assistant Secretary or Director for approval of the exemption. The justification for the exemption shall include a description of the mandate requiring the exemption and an evaluation of the consequences if it is not approved.

12010.13.6 DOM Supplements are Distinct from Local Operational Procedures (OP)

Whereas DOM supplements provide detail for implementing statewide DOM policy locally (e.g., inmate visiting days and hours), OPs address localized policy only for which there is no statewide DOM policy (e.g., local parking privileges and restrictions, or local noise and light mitigation).

12010.14 Bulletins

Specific bulletins shall be used to announce policy for the Department. Each bulletin shall:

- Be reviewed by the appropriate Director, Assistant Secretary, Deputy Director, Chief, or other responsible executive prior to submission for approval.
- Be signed by the Secretary, Undersecretary, Assistant Secretary, Deputy Director, Chief, designee, or other executive staff member.
- Be processed through the RPMB for assignment of a number, forwarded for review by Department stakeholders and executive staff, and processed for printing and distribution.
- Contain an expiration date.

12010.14.1 Administrative Bulletins and Restricted Administrative Bulletins

An AB may be used to announce immediate or temporary revisions to departmental operational policy or new program initiatives, which will be subsequently included in the DOM. ABs are not to be used to implement new or revised policy that has regulatory impact unless enabling regulations have first been adopted. Each AB will have a cancellation date not more than one year from the effective date of the AB, by which time the policy in the AB shall be adopted into DOM or rescinded. An RAB may be used when the change in policy or procedure will be incorporated into the R-DOM (Section 55000).

The Director, Assistant Secretary, Deputy Director, or Chief who administers the area in which a policy change is occurring is responsible for preparing the AB/RAB as follows:

- Determine that an AB/RAB is needed and initiate its preparation within their program.
- Contact RPMB and inform them of the proposed change.
- Ensure other affected divisions are provided an opportunity to review and comment on the draft AB/RAB at the policy coordinator level. RPMB may, upon request, assist with the coordination/vetting process.
- Accommodate comments from affected divisions.

In completing this process, the RPMB will:

- Format, review, and analyze the AB/RAB.
- Ensure necessary Director, Assistant Secretary, Deputy Director, or Chief level reviews are completed.

- Submit the AB/RAB to the appropriate Director, Assistant Secretary, Deputy Director, Chief, or designee for final approval.
- Policy modifications resulting from changes in statute or from court decisions shall be cleared through the Office of Legal Affairs and Fiscal Services prior to submittal for the Secretary's or Undersecretary's approval.
- Policy modifications which potentially affect more than one division shall be routed to the head of each affected division or office for review, comment, and approval.

12010.14.2 Informational Bulletin

The IB is prepared to transmit non-policy announcements of staff appointments, references, significant form revisions, and directory changes (e.g., addresses, telephone numbers), and events or activities about which departmental staff should be informed.

The process for completing IBs is as follows:

- The Director, Assistant Secretary, Deputy Director, or Chief who identifies the need for an IB initiates the IB.
- The IB is forwarded to the Chief, RPMB.
- The RPMB staff reviews, proofs, and formats the IB and submits it to the Chief, RPMB, for approval and signature.

The bulletin shall be maintained on the RPMB website for up to 2 years from date of publication.

12010.14.3 Instructional Memorandum

The IM is used to:

- Disseminate immediate and temporary policy or procedure modifications to the field via the Director, Assistant Secretary, Deputy Director, or Chief. The IM shall contain an expiration date no longer than 60 days.
- Implement a 24-month regulatory Pilot Program under the authority and conditions in Penal Code Section 5058.1, to individual institutions or parole offices via the RPMB, as directed by the appropriate Director, Assistant Secretary, Deputy Director, Chief, or Department executive.

12010.15 Pilot Programs

The Secretary of the California Department of Corrections and Rehabilitation may authorize pilot programs for up to two years using the authority granted in Penal Code (PC) 5058.1. Pilot programs are implemented using an IM or other policy directives as defined in DOM Chapter 1, Article 6, Regulation and Policy Directives. RPMB coordinates with the initiating program on the development and Department approval of pilot programs, and submits the pilot program documents to OAL for certification.

Under PC 5058.1, pilot programs may affect no more than 10 percent of the inmate or parolee population (e.g., female inmates, male inmates, total inmate population). The Secretary or rulemaking designee must certify that the pilot program's policies meet the criteria for adoption as a pilot under the Penal Code, provide an estimate of the fiscal impact, and describe the methods by which the pilot program will be evaluated.

Pilot programs have a duration of up to two years and are then automatically repealed by operation of law. In order for the program to continue beyond two years, regulations to codify the programs into the Title 15 must be adopted by the end of the pilot period.

12010.16 Forms

The departmental Forms Coordinator located in the RPMB will be responsible for implementing and managing all functions related to departmental forms control for Adult Operations, Adult Programs, and program support. The Forms Coordinator will be responsible for the following:

- Overseeing the development and revision of forms to ensure compliance with applicable laws and regulations.
- Assigning form numbers.
- Performing a determination of the impact of a form revision on regulations and the DOM.
- Developing and maintaining the departmental Forms Catalog.
- Providing assistance and information to departmental staff on revising and obtaining departmental forms.
- Acting as departmental forms liaison with other State departments.
- Gathering the necessary information from departmental staff for the completion of form management reports.

Forms must be revised with the approval of the Director, Assistant Secretary, Deputy Director, Chief, or designee that has responsibility over the operation and the regulations and/or DOM policy that the form supports, and processed through the RPMB Forms Coordinator. Forms that have not been approved and processed in this way, or authorized Department forms that have been altered without such approval and processing through the RPMB Forms Coordinator, are considered "bootleg" forms and may not be supported by existing Department regulations and/or DOM and are not available for order through CALPIA or the Office of State Publishing.

12010.17 Regulation and Policy Records

Each division shall maintain their own policy files. A retention schedule shall be established. Those documents that contain historical data shall be retained for the appropriate time frame and transferred to the State Archives.

The RPMB shall maintain rulemaking and policy files relative to printed policy adoptions; i.e., regulations, DOM revisions, and bulletins.

- A copy of any document(s) transmitted to clarify, implement, or enforce existing policy shall be sent to the RPMB to ensure that existing written policy remains current.
- A copy of any formal report (research, evaluation, study, etc.) shall be transmitted to the RPMB for retention as reference material.

12010.18 Revisions

The Director, Division of Administrative Services, shall ensure that the content of this article is accurate and current.

12010.19 References

PC §§, 2080, 2086, 2930, 5050, 5054, 5055, 5058, 5058.1, 5058.3, and 5204(c).

GC §§ 6254, 6255, 11340 - 11350.3 and 14770-14775.

EC § 1040.

CCR (1). §§ 1-280 and (15) § 3002.

Public Employment Relations Board-Case No. S-CE-491-S.

DOM Chapter 3, Article 22, and Chapter 4, Article 38 and 45.

U.S. Department of Justice-Federal Bureau of Prisons Directives Management Manual, Program Statement 1221.66.

Tooma v. Rowland (Sep. 9. 1991) California Court of Appeal, Fifth Appellate District, F015383.