



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO  
REGULATIONS**

**Section(s) 3000, 3173.2, 3287, 3410.1, 3410.2**

**Canine Searches**

**Number:**

**14-10**

**Publication Date:**

**October 31, 2014**

**Effective Date:**

**October 8, 2014**

**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the proposed amendments to Section(s) 3000, 3173.2, 3287, and 3410.1 and adopt Section 3410.2 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning the use of passive canine searches of all persons entering department institutions as an enhanced drug and contraband interdiction strategy to reduce drugs and contraband within the institutions.

**IMPLEMENTATION: IMMEDIATELY**

**PUBLIC COMMENT PERIOD**

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received by the close of the public comment period **December 16, 2014**, at 5:00 p.m.

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held **December 16, 2014, from 9:00 a.m. to 10:00 a.m. in the Kern Room, located at 1515 S Street, Sacramento, CA 95811**. The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

**POSTING**

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 07/08), Certification of Posting, shall be returned to the RPMB electronically, by fax, or by mail. See Department Operations Manual Sections 12010.5.7 and 12010.5.8 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone (916) 445-2269 or e-mail [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations may be directed to John Peterson, Correctional Administrator, Division of Division of Adult Institutions, at (916) 324-1653.

*Original signed by:*

MARTIN HOSHINO  
Undersecretary, Operations  
California Department of Corrections and Rehabilitation

Attachments

**NOTICE OF PROPOSED REGULATIONS**  
**California Code of Regulations**  
**Title 15, Crime Prevention and Corrections**  
**Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret, and make specific PC Section 5054, proposes to amend Sections 3000, 3173.2, 3287, and 3410.1 and adopt Section 3410.2 in the California Code of Regulations, Title 15, Division 3, concerning the use of canines for searches of all individuals.

**PUBLIC HEARING:** December 16, 2014 9:00 a.m. to 10:00 a.m.  
Place: Department of Corrections and Rehabilitation  
Kern Room  
1515 S Street – North Building  
Sacramento, CA 95811  
Purpose: To receive comments about Canine Searches

**PUBLIC COMMENT PERIOD:**

The public comment period will close **December 16, 2014, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

**CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief**  
**Regulation and Policy Management Branch**  
**Department of Corrections and Rehabilitation**  
**P.O. Box 942883, Sacramento, CA 94283-0001**  
**Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**G. Long**  
**Regulation and Policy Management Branch**  
**Telephone (916) 445-2276**

Questions regarding the substance of the proposed regulatory action should be directed to:

**John Peterson**  
**Correctional Administrator, General Population, DAI**  
**Telephone (916) 324-1653**

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action:

- Establishes the use of passive canines as an additional method to search all individuals coming onto institution grounds.
- Provides an enhanced drug and contraband interdiction strategy to reduce drugs and contraband within the prisons.
- Enables the Department to identify individuals who may be using illegal substances or attempting to traffic drugs into the prison.
- Enables the Department to conduct enhanced inspections on all employees, inmates, and visitors.
- Creates a safer environment for inmates, visitors, and employees.

## **FORMS INCORPORATED BY REFERENCE:**

CDCR 837-A (Rev. 07/05) CRIME / INCIDENT REPORT PART A-COVER SHEET

CDC 887-B (01/03) NOTICE OF VISITOR WARNING/TERMINATION/SUSPENSION/DENIAL/REVOCATION

CDC 888 (Rev.01/03) NOTICE OF REQUEST FOR SEARCH

## **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The Department has determined these proposed regulations will be an additional method to prevent the introduction of drugs and contraband into the institutions, eliminate the potential strife between inmates trying to profit from illegal activities, and provide a safer environment for inmates, visitors, staff, all employees, and volunteers.

## **EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING REGULATIONS:**

During the process of amending and developing these regulations, the Department has researched existing regulations and determined that these proposed regulations are not inconsistent or incompatible with existing State laws and regulations.

## **LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

**FISCAL IMPACT STATEMENT**

- Cost to local agency or school district that is required to be reimbursed pursuant to 17500 et seq.: *None.*
- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

**EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will have no impact in the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

The Department has determined that the proposed regulations promote worker safety, and benefits the health and welfare of California residents and the State’s environment with the use of enhanced drug and contraband interdiction strategies to reduce drugs and contraband within the institutions.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of State prisons.

**CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department’s website [http://www.cdcr.ca.gov/Regulations/Adult\\_Operations/](http://www.cdcr.ca.gov/Regulations/Adult_Operations/).

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons will be available on the Department's website at [http://www.cdcr.ca.gov/Regulations/Adult\\_Operations/index.html](http://www.cdcr.ca.gov/Regulations/Adult_Operations/index.html) and may also be obtained from the Department's contact person.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Sections 3000, 3173.2, 3287, 3410.1 and adopt 3410.2 of the California Code of Regulations (CCR), Title 15, Division 3, by implementing the use of passive canine search teams to search all individuals who come onto institutional grounds.

Recognizing the ongoing problem with drug use and trafficking within the institutions, CDCR must focus on undertaking a comprehensive approach to prevent the introduction of drugs and contraband into its institutions. Persons entering and exiting CDCR institutions sometimes employ extraordinary means to try and smuggle drugs and contraband into and out of prisons. These methods include secreting drugs and contraband in hidden pockets in clothing or in body cavities. Importing, trafficking, and drug use cause many problems in a prison setting, including an increase in assaults, power struggles within the inmate population, establishment of an underground economy, and staff corruption. Tragically, 29 inmate deaths attributed to illegal drug overdoses were reported from January 2012 to February 2014. Incidents involving drugs also result in overtime for writing reports, processing evidence, processing crime scenes, and searching among other things.

There were over 4000 documented incidents recorded in 2013 related to drugs in our prisons. Of these 4000 drug related incidents, there were 382 arrests of non-inmates attempting to introduce drugs into an institution. Of the 382 arrests there were 10 staff, 320 visitor, and 52 non-visitor arrests from January 2013 to December 2013.

In June 2013 the CDCR conducted blind baseline urine testing of 25 percent of the inmate population. The results confirmed nearly 23 percent of the inmates who voluntarily participated tested positive for one or more illicit drugs. Approximately 30 percent of inmates randomly selected to voluntarily test declined to do so even though there were no disciplinary actions taken against inmates testing positive.

Based on the 2013 drug related incidents and test results, the Department must do more to reduce the availability of and use of drugs in the prison system. Reducing the introduction of illegal drugs into prison facilities will decrease drug use and have an indirect effect of reducing violence, injuries, gang influence, lockdowns, and modified programs. Therefore, the Department seeks to move forward with the implementation of various drug interdiction strategies, which includes the use of passive canine units. "Passive" air scan canine searches coupled with other drug and contraband interdiction strategies such as increased sanctions will act as a deterrent to the introduction of illicit drugs.

Air scan is the terminology used to describe how a canine breathes or smells the air around a person or item. When the canine breathes through his/her nose they can detect the odor of specific substances and then alert or change behavior in response to the odor. A passive air scan search is conducted by allowing a canine to roam through an open area where people congregate and scan the air without directing the canine to target a specific item, person, or area. The handler, utilizing a 6' leash, follows the canine freely past individuals or through areas. If the canine discovers the target odor, he/she will "alert" the handler when in close proximity to whatever is giving off the target odor. A passive alert is typically the dog sitting or staring at the target odor. An active alert is typically scratching or pawing at the target odor.

A direct air scan search is conducted by identifying a specific person, place, or article of property and directing the canine to scan the air to determine if the target odor is present. If the canine discovers the target odor, he/she will alert the handler when in close proximity to whatever or whoever is giving off the target odor.

Staff are required to be polite, courteous, and respectful. Canine handlers will reassure individuals to be searched that the procedure is safe and the canine will be on a leash. Handlers will be trained to keep the canine from climbing, jumping, pawing, etc. and will not be allowed to touch the individuals, but inadvertent contact may occur by a dog nose, which will not be intentional and not encouraged.

Visitors must give consent for a search by a departmental canine. Visitors can refuse to consent to the search and if so, will be denied contact visiting, but may be given a non-contact visit if space is available. If the odor of illegal drugs is detected during the air scan of the visitor, denial of entrance into the institution or the approval of a non-contact visit will be in accordance with Department policy. A visitor found in possession of drugs and/or cell phones (via admission or emptying of his/her pockets, etc.) shall be referred to the Investigative Services Unit (ISU) for possible arrest. A visitor who receives negative results from the air scan will be permitted to resume his/her visitor processing.

Departmental employees consent to search is a condition of employment and employees cannot refuse a search, including searches by a canine. If the odor of drugs is detected, the individual will not be permitted to enter the institution and supervisory staff will be notified. If an individual is found in possession of drugs or contraband, they will not be permitted to enter the institution and shall be referred to ISU for possible arrest.

Contractors and their employees, members of the media, and volunteers will consent to a search as a condition of entering institutional settings. Failure to consent will result in denial of entry.

Prior to any search, the staff member in charge of the search will determine if all persons are going to be searched or if a random selection will be used to determine who will be searched. If a random selection is used, (e.g., every fifth person), this selection process will be determined prior to the start of any searches and documented on the search plan and not changed without approval of the staff member in charge of the search. Under no circumstances will profiling be practiced.

This rulemaking action will provide appropriate authority and direction for staff and canine handlers conducting searches on all persons entering or exiting institutional grounds.

**CONSIDERATION OF ALTERNATIVES:**

The Department has determined that no reasonable alternatives considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has made an initial determination that no reasonable alternatives to the regulation have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department's initial determination.

**SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The Department has made an initial determination that this action will not have a significant adverse economic impact on business because business is not affected by the internal management of prisons.

## **ECONOMIC IMPACT ASSESSMENT:**

The Department is implementing passive canine searches to the extent allowed with existing resources and will expand the program when and if additional resources are provided.

Additionally, in accordance with Government Code Section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

### **Creation or Elimination of Jobs within the State of California**

The Department has determined that the proposed regulations will have no impact on the creation of new or elimination of existing jobs or businesses within California because those jobs or businesses are not affected by the internal management of prisons.

### **Creation of New Businesses or Elimination of Existing Businesses within the State of California**

The Department has determined that the proposed regulations will have no effect on the creation of new or elimination of existing businesses within the State of California because those businesses are not affected by the internal management of prisons.

### **Expansion of Business Currently Doing Businesses within the State of California**

The Department has determined that the proposed regulations have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of prisons.

## **BENEFITS OF THE REGULATIONS**

The proposed regulatory action will:

- Provide staff with additional tools to detect the presence of illegal substances and contraband providing an additional deterrent to the introduction of illegal substances to the inmate population.
- Eliminate the potential strife between inmates trying to profit from illegal activities. Thus, the need to modify inmate program as a result of disruptive behaviors is significantly reduced.
- Provide an environment free from illegal substances for inmates seeking/advocating recovery from addiction.
- Provide a safer environment for inmates, staff, visitors, contractors and their employees, and volunteers.

A safe environment promotes the Department's efforts in providing rehabilitative programs to the inmate population, as we work towards preparing individuals for release back into society.

## **REPORTS RELIED UPON**

Information regarding COMPSTAT DAI Analysis – Drug Related Incidents 2013 (January 2013 through December 2013), DAI Urinalysis Baseline Testing COMPSTAT Analysis (July 9, 2013), Staff Arrest Statistics, Division of Adult Institutions, January 2013 through December 2013, Visitor Arrest Statistics, Division of Adult Institutions, January 2013 to December 2013, and Non-Visitor Arrest Statistics, Division of Adult Institutions, January 2013 to December 2013 can be viewed on the Department's website at [http://www.cdcr.ca.gov/Regulations/Adult\\_Operations/Supplemental\\_Documents.html](http://www.cdcr.ca.gov/Regulations/Adult_Operations/Supplemental_Documents.html).

Copies of these documents will be available for review as part of the rulemaking file.

**SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PER GOVERNMENT CODE 11346.2(B)(1):**

**Chapter 1. Rules and Regulations of Adult Operations and Programs**

**Article 1. Behavior**

**3000 Definitions.**

**Section 3000 is amended** to add and alphabetically merge definitions associated with the new Canine Searches of All Individuals into existing definitions.

Canine is defined to offer a term used to describe a dog's function within the Department, commonly used breeds, and to make clear that a Department canine is designated a peace officer.

Canine Handler is defined to offer a term used for a peace officer trained to handle a canine and recognize the canine's alert signs.

Air Scan Search is defined to offer a term used when a canine is instructed to scan or "sniff" the air in an attempt to detect the odor of drugs, cellphones, and/or tobacco.

Positive Canine Alert is defined to offer a term that describes the behavior a canine exhibits when they detect the odor of drugs, cellphones, and/or tobacco.

**3173.2 Searches and Inspections.**

**Subsections 3173.2(a) through 3173.2(b) are unchanged.**

**Subsection 3173.2(c) is amended** to add passive canines as an additional method to search visitors for drugs or contraband. This is necessary to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(1) is adopted** to establish that any individual is subject to canine search. It is important that members of the public, staff, and others who enter CDCR institutions are aware, through the Department's public and codified rules, that such searches will take place. This is necessary to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(2) is adopted** to specify who is responsible for determining the random method of searches, and to ensure clarity that the method is determined and documented prior to the beginning of searches and shall not be altered. This is necessary to ensure profiling is not practiced and to assist in the department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(2)(A) is adopted** to establish that an announcement will be made informing visitors of the passive air scan search and the purpose of the search. This is necessary to ensure visitors are aware of the Department's use of canine detection dogs to search for illegal drugs.

**New subsection 3173.2(c)(2)(B) is adopted** to establish who will request consent for the search and inform visitors of their options to refuse, and the consequences. This is necessary to allow the visitor to exercise their right not to be searched and to ensure understanding that refusal to be searched will result in a denial of contact visiting.

**New subsection 3173.2(c)(2)(C) is adopted** to establish the behavior of the visitor towards the canine. This is necessary to ensure visitors do not attempt to pet, stroke, or otherwise distract the canine and to protect the visitor as well as the canine.

**New subsection 3173.2(c)(2)(D) is adopted** to establish the handler's instruction to the canine towards the visitor. This is necessary to ensure the canine does not intentionally come in contact with the visitor and to protect the visitor as well as the canine.

**New subsection 3173.2(c)(2)(E) is adopted** to establish how the handler responds to an excessively nervous visitor. This is necessary so visitors are as comfortable as possible with the presence of the canine and assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions and ensure.

**New subsection 3173.2(c)(3) is adopted** to establish the title of this section.

**New subsection 3173.2(c)(3)(A) is adopted** to establish the visitor's rights if there is no positive alert. This is necessary to ensure that the visiting process continues promptly after completion of an air scan that does not result in a positive alert.

**New subsection 3173.2(c)(3)(B) is adopted** to establish that if there is a canine alert, the visitor is required to submit to an unclothed body search before being allowed a contact visit that day. Prior to an unclothed body search, CDC Form 888 (Rev. 01/03), Notice of Request for Search, must be completed by staff and signed by the visitor giving authorizing for the search. If the visitor refuses to be searched or if drugs or contraband are found, CDC Form 887-B (Rev. 01/03), Notice of Visitor Warning/ Termination/ Suspicion/ Denial/ Revocation must be completed to specify the visiting violation and length of time of the denial. These forms are incorporated by reference into these regulations and copies are available to the public for review. This language is necessary to ensure visitors are aware of their rights and ensure proper forms are completed and proper procedures are followed by staff to assist in the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(3)(C) is adopted** to establish the consequences if a visitor is found in possession of drugs and/or cell phone and are referred to the institutions Investigative Services Unit (ISU). This is necessary as a preventative measure to protect staff, visitors, and inmates and assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs and maintaining a healthy visiting environment in its institutions.

**New subsection 3173.2(c)(3)(D) is adopted** to establish that any confiscated substance or contraband will be handled as evidence. This is necessary to ensure the chain of custody and that evidence processing is completed for potential referral for criminal prosecution.

**New subsection 3173.2(c)(3)(E) is adopted** to establish who will determine what action will be taken if contraband is found by the canine handler. This is necessary to ensure appropriate supervision of canine handlers and consistency with departmental expectations.

**New subsection 3173.2(c)(3)(F) is adopted** to establish the requirements if there is a positive alert and no drugs or contraband are found, or if drug paraphernalia is discovered. The Department's intent is not punitive in nature, it is meant as a preventative measure to protect the public by allowing custody staff to search a visitor who they reasonably suspect may introduce drugs or contraband into the facility. This is necessary to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(3)(G) is adopted** to establish the consequences for refusal to submit to an unclothed body search. This is necessary to assist the Department's efforts in minimizing/eliminating the

introduction of contraband and drugs into the institutions while providing some access to visiting if possible.

**New subsection 3173.2(c)(3)(H) is adopted** to establish the consequences of refusing to submit to an unclothed body search after three positive alerts. This is necessary ensure visitors are aware of the consequences of positive alerts and to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(3)(I) is adopted** to establish forms for consent or refusal for an unclothed body search that must be completed. This is necessary to ensure everyone is aware of their rights prior to an unclothed by search and the consequences of refusing a search or if drugs or contraband are found.

**New subsection 3173.2(c)(4) is adopted** to establish the title of this section.

**New subsection 3173.2(c)(4)(A) is adopted** to establish that canines may alert to a visitor who takes prescription medications This is necessary as canines detect all types of drugs to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(4)(B) is adopted** to establish the responsibility of the visitor if they claim the alert is to prescribed medications. This is necessary to ensure the visitor does not lose their rights to a contact visit and assist in the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions while providing access to visiting if possible.

**New subsection 3173.2(c)(4)(C) is adopted** to establish that if there is a positive scan, with proper documentation of prescribed medication, a regular visit may be authorized. This is necessary to ensure the visitor may not lose their right to visit and assist in the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(4)(D) is adopted** to establish the type of authorized visit if documentation of prescribed medication is not readily available. This is necessary to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3173.2(c)(5) is adopted** to establish that only Department personnel shall search visitors. This is necessary to ensure that only departmentally trained drug detection staff and certified passive search canines are used in the search of persons.

**New subsection 3173.2(c)(6) is adopted** to establish the title of this section.

**New subsection 3173.2(c)(6)(A) is adopted** to establish the process when visitors are found in possession of drugs or contraband and referred to the institutions ISU. The ISU is a group specifically trained in investigations who will detain the suspect while other CDCR staff continues to process visitors for their scheduled visits. This is necessary to inform visitors of the consequences of being found in possession and to assist the Department in its efforts to provide a safe environment for inmates, visitors, and staff and its efforts to prevent the introduction of drugs or contraband into the institution.

**New subsection 3173.2(c)(6)(B) is adopted** to establish the process after the pre-booking has been completed. This is necessary to ensure staff and arrestee(s) are aware of the procedures if an arrest is made and that the process is conducted promptly.

**New subsection 3173.2(c)(6)(C) is adopted** to establish who makes the decision of an arrest, citation, or referral to the District Attorney's (DA) for visitors in possession of drugs or contraband. This is necessary to ensure consistency and to ensure prompt referral to the local DA office for prosecution is completed as requested by the DA.

**New subsection 3173.2(c)(6)(D) is adopted** to establish the procedure when a visitor is arrested or receives a citation while on institution grounds. In addition, CDCR 837-A (Rev. 07/05), Crime/Incident Report, Part A - Cover Sheet, is used to document the crime/incident and will be forwarded along with other reports to the DA's office. This information is necessary to ensure the DA has documentation of the arrest and the reasons for the arrest. Form 837-A is already established in regulations therefore, no copy is being made available to the public.

**Subsections 3173.2(d) through 3173.2(i)(2) are unchanged.**

## **Subchapter 2. Inmate Resources**

### **Article 2. Security**

#### **3287 Cell, Property, and Body Inspections.**

**Subsections 3287(a) through 3287(c) are unchanged.**

**New subsection 3287(c)(1) is adopted** to establish that inmates shall be subject to a passive air scan. This is necessary to check an inmate for the possession of drugs in an effort to prevent the use of drugs or contraband in the institution.

**New subsection 3287(c)(2) is adopted** establish that an announcement will be made informing inmates of the passive air scan search and the purpose of the search. This is necessary to ensure inmates are aware of the Department's use of canine detection dogs to search for illegal drugs.

**New subsection 3287(c)(2)(A) is adopted** to establish the behavior of the canine towards the inmate. This is necessary to ensure the canine does not intentionally come in contact with the visitor and to protect the visitor as well as the canine.

**New subsection 3287(c)(2)(B) is adopted** to establish how the handler responds to an excessively nervous inmate. This is necessary so the inmate feels as comfortable as possible during the search and to assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3287(c)(3) is adopted** to establish the process when there is a positive canine alert to an inmate. This is necessary to determine the reason for the positive canine alert and to prevent the use of drugs or contraband in the institution.

**New subsection 3287(c)(3)(A) is adopted** to establish that any confiscated substance or contraband will be handled as evidence. This is necessary to ensure the chain of custody and that evidence processing is completed for potential referral for criminal prosecution.

**New subsection 3287(c)(3)(B) is adopted** to establish who will determine what action will be taken if contraband is found by the canine handler. This is necessary to ensure appropriate supervision of canine handlers and consistency with departmental expectations.

## **Subchapter 5. Personnel**

### **Article 2. Employees.**

#### **3410. Intoxicants and drugs.**

**Subsection 3410.1 title is amended** to add persons who are subject to search.

**Subsection 3410.1(a) is amended** to include what are subject to be searched by passive canine. This is necessary to ensure all employees are aware of what will be searched and the type of search to assist in the Department's efforts in minimizing/eliminating the introduction of contraband into the prisons.

**New subsection 3410.1(b) is adopted** to establish that all persons consent to be searched when entering institutional grounds. This is necessary so they know by coming onto the grounds of any department facility they consent to be searched to assist the Department's efforts in minimizing/eliminating the introduction of contraband into the prisons.

**New subsection 3410.2 title is adopted** to establish the type of search and who will be searched.

**New subsection 3410.2(a) is adopted** to establish all employees are subject to be searched, how they will be searched and the purpose of the search. This is necessary to ensure all individuals are aware of the search regulations to assist the Department's efforts in minimizing/eliminating the introduction of contraband into the prisons.

**New Subsection 3410.2(b) is adopted** to establish direct searches of all employees and who will be responsible for determining the random method of searches and to ensure clarity that the method is determined and documented prior to the beginning to searches and shall not be altered. This is necessary to ensure that profiling is not practiced. Random searches insure that all employees have an equal chance of being selected for a search. Such searches assist in the department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3410.2(b)(1) is adopted** establish that employees will be made informed of the passive air scan search and the purpose of the search. This is necessary to ensure employees are aware of the Department's use of canine detection dogs to search for illegal drugs.

**New subsection 3410.2(b)(2) is adopted** to establish who will inform employees what the canines have been trained to do. This is necessary to ensure that persons being searched have an understanding of the process and the specialized training for canine units.

**New subsection 3410.2(b)(3) is adopted** to establish the behavior of the employees towards the canine. This is necessary to ensure employees do not attempt to pet, stroke, or otherwise distract the canine. The safety of staff and canine units is protected by such notice.

**New subsection 3410.2(b)(4) is adopted** to establish the handler's instruction to the canine towards the individual being scanned. This is necessary to ensure that the canine does not intentionally contact the person to protect the individual as well as the canine.

**New subsection 3410.2(b)(5) is adopted** to establish how the handler responds to an excessively nervous employee. This is necessary so employees are as comfortable as possible with the presence of the canine and assist the Department's efforts in minimizing/eliminating the introduction of contraband and drugs into the institutions.

**New subsection 3140.2(c) is adopted** to establish canine passive air scan searches. This is necessary to utilize canines to assist in the Department's efforts in minimizing/eliminating the introduction of contraband into the prisons.

**New subsection 3410.2(c)(1) is adopted** to establish where air scan searches of individuals may be conducted. This is necessary so the canine can move freely through areas occupied by employees to assist in the Department's efforts in minimizing/eliminating the introduction of contraband in the institutions.

**New subsection 3410.2(c)(2) is adopted** to establish that reasonable suspicion may initiate a passive air scan. This is necessary because there may be circumstances when an individual is selected for a search outside the random search protocol because reasonable suspicion exists. Reasonable suspicion is defined as a search based on articulable facts, circumstances, and rational inferences that a person has committed, is committing, or is about to commit a crime.

**New subsection 3410.2(d) is adopted** to establish Positive Canine Alert.

**New subsection 3410.2(d)(1) is adopted** to establish who is notified when a canine alerts to an air scan search and that the individual and any item of that individual is subject to search. This is necessary as a preventative measure to ensure drugs or contraband are not taken inside the institution.

**New subsection 3410.2(d)(2) is adopted** to establish who to contact when an exigent investigation may be needed prior to a search. This is necessary to prevent the loss of critical information or evidence that a departmental employee, employee of other government agency, contract employee, contractor or their employee, or volunteer is involved in potential criminal activity.

**New subsection 3410.2(d)(3) is adopted** to establish the process when employees are found in possession of drugs or cell phones and referred to the ISU. This is necessary to inform employees of the consequences of being found in possession and to assist the Department in its efforts to provide a safe environment for inmates, visitors, and staff and its efforts to prevent the introduction of drugs or contraband into the institution.

**New subsection 3410.2(d)(4) is adopted** to establish who can and who cannot refuse to be searched and the consequences. This is necessary as a preventative measure to ensure drugs or contraband are not taken inside the institution.

**New subsection 3410.2(d)(5) is adopted** to establish that outside law enforcement shall not be involved in the searching of employees. This is necessary to ensure that only departmentally trained and certified passive search canines are used in the search.

**New subsection 3410.2(d)(6) is adopted** to establish that if an arrest is initiated, persons arrested along with drugs and contraband are turned over to the ISU. This is necessary to assist the Department's efforts in minimizing/eliminating the introduction of contraband into the prisons.

**New subsection 3410.2(d)(6)(A) is adopted** to establish procedures after the pre-booking process. This is necessary to ensure individual are aware of the procedures if an arrest is made and ensure that the process is conducted promptly.

**New subsection 3410.2(d)(6)(B) is adopted** to establish who will determine the action to be taken if the individual is found in possession of drugs or contraband. This is necessary to ensure that individuals are aware who makes decisions.

**New subsection 3410.2(d)(6)(C) is adopted** to establish that if an arrest or a citation is issued, what form and documents will be forwarded to the DA's office. This is necessary for clarity.

## TEXT OF PROPOSED REGULATIONS

In the following, all new language is indicated by underline and deleted text is indicated by strikethrough.

### Chapter 1. Rules and Regulations of Adult Operations and Programs

#### Article 1. Behavior

##### 3000. Definitions

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

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Canine means a dog that is trained specifically to assist CDCR personnel. Departmental canines are primarily responsible for searching for illegal drugs, tobacco, and cell phones. The department's most commonly used breeds are Labrador Retrievers, German Shepherds, and Belgian Malinois; however, Beagles and German Short Hair Pointers may also be used. Departmental canines are designated as Peace Officers and the intentional injury of a departmental canine will be prosecuted as described in Penal Code section 600.

Canine Handler means a departmental Peace Officer trained in the handling, care, instruction, and use of a departmental canine, including recognition of the canine's alert to the odor of items the canine is trained to detect.

Air Scan Search means when a departmental canine is instructed to "scan" or sniff the air in an attempt to detect the odor of drugs, tobacco, or cell phones on a person or within specific articles of property. The canine handler will allow the dog to move freely past individuals and objects. Should the canine detect the odor of any drugs, tobacco, or cell phones the canine will display a positive canine alert.

Positive Canine Alert means a change in behavior that departmental canines are trained to perform when they detect the odor of marijuana, heroin, cocaine, methamphetamine, tobacco, and cell phones. This change in behavior alerts the handler the canine has detected the odor of drugs, tobacco, or cell phones. Passive canines are trained to perform signals including but not limited to sitting and/or staring at the detected contraband. Active canines are trained to perform signals including but not limited to scratching and/or staring at the detected contraband.

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NOTE: Authority cited: Sections 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5050, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; and *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH).

## Subchapter 2. Inmate Resources

### Article 7. Visiting

#### 3173.2. Searches and Inspections.

Subsections 3173.2(a) through 3173(b) are unchanged.

Subsection 3173.2(c) is unchanged and shown for reference:

(c) Visitors shall be required to submit to contraband and/or metal detection device(s) and/or electronic drug detectors including, but not limited to, ION scanners and other available contraband and/or metal detecting device(s) technology, and a thorough search of all personal items, including inspection of a wheelchair, implant, prosthesis or assistive devices; prior to being allowed to visit with an inmate. Visitors shall be subject to search by passive canines as follows:

**New subsections 3173.2(c)(1) through 3173.2(c)(6)(d) are adopted to read:**

(1) Any person coming onto the grounds of any department facility is subject to search by a department canine as part of the department's drug interdiction program.

(2) Direct Search of Visitors using Passive Alert Canines.

Prior to beginning the search of visitors using passive alert canines, the Search Operations Commander or designee shall be responsible for determining if the search will be of all visitors entering or exiting an area, or only those selected on a random basis. The random selection method shall be documented on the Canine Search Log prior to the commencement of the searches. The random pattern shall not be altered unless approved by the Search Operations Commander.

(A) The canine handler shall make a courteous Visitor Search Announcement informing the visitor(s) that he/she is conducting passive air scan searches of visitors using passive alert canines and that the purpose of the scan is to detect illegal drugs.

(B) The canine handler shall request consent to conduct a passive air scan search of any visitor prior to conducting the passive air scan search. The visitor shall be informed that he/she does have the right to refuse the search. Any visitor who refuses to be searched in this manner shall be denied contact visiting but may be authorized for a non-contact visit if available on that same day.

(C) The visitor shall be directed to not interact with the canine in any way.

(D) While inadvertent contact is a possibility, the handler shall not instruct the canine to contact the visitor.

(E) If the visitor seems excessively nervous, the handler shall attempt to reassure the visitor that the procedure is safe.

(3) Results of a Canine Search.

(A) If the canine does not give a positive canine alert during an air scan of a visitor, the visitor shall be permitted to resume his/her visitor processing.

(B) If the canine does alert during an air scan search of the visitor, the visitor shall be required to submit to an unclothed body search as a condition of visiting. Refusal to submit to the search shall result in the denial of contact visiting for that day and approval for non-contact visiting only, if available. All requests for unclothed body searches, the reason for the request, and specific facts on which the search is based shall be documented on CDC Form 888 (Rev. 01/03), Notice of Request for Search, which is incorporated by reference. This form shall include the subject's name, date, and signature of person authorizing the search. Should the visitor refuse to be searched or in instances where drugs or contraband are discovered, a CDC Form 887-B (Rev. 01/03), Notice of Visitor Warning/ Termination/ Suspicion/ Denial/ Revocation, which is incorporated by reference, shall be completed. This form shall specify the reason for the denial of visiting and time frames for which the denial/suspension are in effect.

(C) A visitor found in possession of drugs and/or cell phones shall be referred to ISU for possible arrest and shall be suspended from visiting at any CDCR facility pursuant to section 3176.3, except that the suspension shall be for three years on the first occasion and shall be a permanent exclusion on any subsequent occasions.

(D) Any confiscated controlled substance or other contraband shall be handled as evidence.

(E) Whenever a canine handler finds contraband, the find shall be reported to the on duty supervisor. The supervisor shall determine what action shall be taken.

(F) In instances when a positive canine alert is given, but no drugs or contraband are discovered, or in instances where drug paraphernalia is discovered on the person of a visitor, the visitor shall be required to submit to an unclothed body search as a condition of visiting.

(G) A visitor's refusal to submit to a required unclothed body search shall result in the denial of contact visiting for that day and approval for non-contact visiting only, if available, for the next two consecutive visits unless that visitor submits to an unclothed body search.

(H) Any visitor who refuses to submit to an unclothed body search after a positive canine alert and/or positive Electronic Drug Detection Equipment (EDDE) alert three times within a twelve-month period may be suspended from visiting at all CDCR facilities pursuant to section 3176.3, except that any such suspension shall not exceed one year.

(I) All requests for unclothed body searches, the reason for the request, and specific facts on which the search is based shall be documented on CDC Form 888 (Rev. 01/03), Notice of Request for Search, which is incorporated by reference. This form shall include the subject's name, date, and signature of person authorizing the search. Should the visitor refuse to be searched or in instances where drugs or contraband are discovered, a CDC Form 887-B (Rev. 01/03), Notice of Visitor Warning/ Termination/ Suspicion/ Denial/ Revocation, which is incorporated by reference, shall be completed. This form shall specify the reason for the denial of visiting and time frames for which the denial/suspension are in effect.

(4) Positive Canine Alert due to prescribed medications.

(A) When conducting scans of inmate visitors, there may be occasions when legitimate circumstances exist that may result in a positive canine alert. The cause of this alert may be the visitor's use of prescribed medications that contain narcotics and other drugs for which the canine has been trained to alert.

(B) Should the visitor claim that a positive canine alert is due to one or more prescribed medications, that person must provide current documentation in the form of a doctor's verification or a valid prescription for the medication that is suspected to have caused the positive alert before they will be permitted a contact visit.

(C) If the visitor has provided valid documentation and the prescribed medication is found to be the source of the positive scan, the Visiting Lieutenant may authorize a regular visit.

(D) If documentation is not readily available, a non-contact visit may be authorized, if available.

(5) Outside Law Enforcement Agencies.

Local police officers or other law enforcement officers shall not be involved in the search of visitors.

(6) Arrests/Citations/District Attorney Referral.

(A) Visitors who are searched and found in possession of drugs or contraband are subject to arrest. If an arrest is initiated, those arrested, along with the drugs or contraband discovered shall be turned over to the institution's Investigative Services Unit (ISU).

(B) Once the pre-booking process has been completed by CDCR staff, the arrestee(s) shall be transported without delay by CDCR personnel or by the local police/sheriff's department to a designated detention facility. Arrestee(s) shall not be held at the pre-booking area beyond a reasonable amount of time necessary to complete the process.

(C) If any visitor is found in possession of drugs or contraband, the ISU Lieutenant/Search Commander shall make any decision to arrest, issue a citation, or refer the matter to the District Attorney's office for prosecution.

(D) In all cases where a visitor is arrested and/or issued a citation for committing a criminal act while on institution grounds, a copy of CDCR 837-A (Rev. 07/05), Crime/Incident Report, Part A - Cover Sheet, which is incorporated by reference, arrest reports, and staff reports documenting the arrest will be forwarded to the local District Attorney's office in accordance with existing departmental regulations in sections 3176.2 and 3316(a).

**Subsections 3173.2(d) through 3173.2(i)(2) are unchanged.**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4573, 4573.5, 4576 and 5054, Penal Code.

## **Subchapter 4. General Institution Regulations**

### **Article 2. Security**

#### **3287. Cell, Property, and Body Inspections.**

**Subsections 3287 (a) through 3287 (b)(5) are unchanged.**

**Subsection 3287(c) is unchanged and shown for reference.**

(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.

**New Subsections 3287(c)(1) through 3287(c)(3)(b) are adopted to read:**

(1) Inmates shall be subject to passive air scan searches by a passive alert canine.

(2) Direct Searches of inmates: The canine handler shall make an announcement informing the inmate(s) that he/she is conducting passive air scan searches using a passive alert canine and that the purpose of the scan is to detect illegal drugs. The inmate does not have the right to refuse the search. An inmate who refuses to be searched may be subject to disciplinary action and subject to additional search and urine testing for the presence of drugs.

(A) While inadvertent contact is a possibility, the handler shall not instruct the canine to contact the inmate.

(B) If the inmate seems excessively nervous, the handler shall attempt to reassure the inmate that the procedure is safe.

(3) Results of a Canine Search. If the canine gives a positive canine alert during a passive air scan search of the inmate, the inmate shall submit to an unclothed body search and urinalysis testing.

(A) Any confiscated controlled substance shall be handled as evidence.

(B) Whenever a Canine handler finds contraband, the find shall be reported to the on duty supervisor. The supervisor shall determine what action shall be taken.

**Subsection 3287 (d) is unchanged.**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Jordan v. Gardner, 986 F.2d 1521.

**Subchapter 5. Personnel**

**Article 2. Employees**

**Section 3410.1 is amended to read:**

**3410.1 Searches of Employees, Contractors, and Volunteers for Contraband and Illegal Drugs.**

(a) All persons who are employed by the department, employees of other government agencies, contract employees, contractors and their employees, and volunteers who come onto institutional grounds are subject to a search of their person, private property, and vehicles for contraband and illegal drugs before entering, or while inside, any department facility or department grounds via the use of contraband and/or metal detection equipment and/or electronic drug detectors including, but not limited to, ION scanners and other available contraband and/or metal detecting device(s) technology, and passive alert canines may be used for this purpose.

(b) By entering or attempting to enter a department facility or department grounds, employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers consent to being searched for contraband and illegal drugs.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4573, 4573.5, 4574, 4576, and 5054, Penal Code.

**New Section 3410.2 and title are adopted and new subsections 3410.2(a) through 3410.2(b)(6) are adopted to read:**

**New subsection 3410.2 Passive Alert Canine Searches of Employees, Contractors, and Volunteers.**

(a) An employee, employees of other government agencies, contract employees, contractors and their employees and volunteers coming onto the grounds of any department facility is subject to search by a department canine as part of the department's drug interdiction program. Passive alert canines shall be used to combat the introduction of illegal drugs and contraband being smuggled into CDCR facilities.

(b) Direct searches of employees, employees of other government agencies, contract employees, contractors and their employees and volunteers by Canine Units.

Prior to beginning a search of employees, employees of other government agencies, contract employees, contractors and their employees and volunteers using passive alert canines, the Search Operations Commander or designee shall be responsible for determining if the search will be of all employees entering or exiting an area, or only those selected on a random basis (e.g., every 3rd or 5th). The random selection method shall be documented on the Canine Search Log prior to the commencement of the searches. The random pattern shall not be altered unless approved by the Search Operations Commander.

(1) The canine handler shall inform employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers that he/she is conducting passive air scan searches of individuals using passive alert canines and that the purpose of the scan is to detect illegal drugs.

(2) The canine handler shall inform each employee, employees of other government agencies, contract employees, contractors and their employees, and volunteers that the passive canines have been trained to detect the presence of contraband by smell and to alert their handlers to that detection by sitting down or staring.

(3) Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be directed to not interact with the canine in any way.

(4) While inadvertent contact is a possibility, the handler shall not instruct the canine to contact the individual being scanned.

(5) If the subject of the air scan seems excessively nervous, the handler shall attempt to reassure the person that the procedure is safe, but the person shall not be permitted to pass into the institution without being scanned.

(c) Passive air scan searches by Canines. All positive air scan results shall be documented on the Canine Positive Air Scan Results Log. A passive air scan search may be conducted under one or both of the following conditions:

(1) A passive air scan search may be conducted in open areas where groups of employees, employees of other government agencies, contract employees, contractors and their employees, or volunteers are walking and/or congregated, e.g., main entrances, administration buildings, in service training areas, sallyports, hallways, housing units, visiting rooms, or yards, etc.

(2) A passive air scan search of any employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers may also be initiated based upon reasonable suspicion.

(d) Positive Canine Alert.

(1) If the canine alerts during the air scan of an employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers, supervisory staff shall be notified immediately. The employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers will be subject to a patdown search by same gender supervisory staff in a private setting. Any item being brought into the facility by that employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers will be subject to a thorough search. If no contraband is discovered, the individual shall be allowed to enter the institution.

(2) The Office of Internal Affairs (OIA) Regional Special Agent in Charge or OIA Administrator Officer of the Day shall be contacted for consideration of an exigent investigation prior to the search of any departmental employee, employees of other government agencies, contract employee, contractor and their employee, or volunteer when there is a reasonable suspicion that the employee, employees of other government agencies, contract employee, contractor and/or their employee, and volunteer is or will be in possession of illegal drugs or contraband and when the employee, employees of other government agencies, contract employee, contractor and their employee, or volunteer is individually selected. This shall not apply to random, gate or area searches. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.

(3) An employee, employees of other government agencies, contract employee, contractor and their employees, or volunteers found in possession of drugs and/or cell phones shall be referred to ISU for possible arrest.

(4) Employees of other government agencies, contract employees, contractors and their employees, and volunteers can refuse to submit to the search; however, refusal shall result in the denial of entry and permanent exclusion from CDCR institutions. Departmental employees do not have the right to refuse the search.

(5) Outside Law Enforcement Agencies shall not be involved in the search process.

(6) Arrests/Citations/District Attorney Referral. Persons who are searched and found in possession of drugs or contraband are subject to arrest. If an arrest is initiated, those arrested, along with the drugs or contraband discovered shall be turned over to the institution's Investigative Services Unit (ISU).

(A) Once the pre-booking process has been completed by CDCR staff, the arrestee(s) shall be transported by CDCR personnel or by the local police/sheriff's department to a designated detention facility. Arrestee(s) shall not be held at the pre-booking area beyond a reasonable amount of time necessary to complete the process.

(B) If any employee, employee of other government agencies, contract employee, contractor and/or their employee, or volunteer is found in possession of drugs or contraband, the ISU Lieutenant/Search Commander shall make any decision to arrest, issue a citation, or refer the matter to the District Attorney's office for prosecution.

(C) In all cases where an employee, employee of other government agencies, contract employee, contractor and/or their employee, or volunteer is arrested and/or issued a citation for committing a criminal act while on institution grounds, a copy of CDCR 837-A (Rev. 07/05), Crime/Incident Report, Part A-Cover Sheet, which is incorporated by reference, arrest reports, and staff reports documenting the arrest shall be forwarded to the local District Attorney's office in accordance with existing departmental regulations in sections 3176.2 and 3316(a).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4573, 4573.5, 4574, 4576 and 5054, Penal Code.

**CRIME / INCIDENT REPORT**

**PART A - COVER SHEET**

**CDCR 837-A (Rev. 07/05)**

	PAGE 1 OF _____	INCIDENT LOG NUMBER	INCIDENT DATE	INCIDENT TIME			
INSTITUTION	FACILITY	FACILITY LEVEL <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV	INCIDENT SITE	LOCATION	<input type="checkbox"/> ASU <input type="checkbox"/> SHU <input type="checkbox"/> PSU <input type="checkbox"/> SNY <input type="checkbox"/> PHU <input type="checkbox"/> CTC <input type="checkbox"/> GP <input type="checkbox"/> RC	SEG. YARD: <input type="checkbox"/> CC <input type="checkbox"/> WA <input type="checkbox"/> RM	USE OF FORCE <input type="checkbox"/> YES <input type="checkbox"/> NO

SPECIFIC CRIME / INCIDENT \_\_\_\_\_

CCR    PC    N/A  
NUMBER/SUBSECTION: \_\_\_\_\_

D. A. REFERRAL ELIGIBLE <input type="checkbox"/> YES <input type="checkbox"/> NO	CRISIS RESPONSE TEAM ACTIVATED <input type="checkbox"/> YES <input type="checkbox"/> NO	MUTUAL AID REQUESTED <input type="checkbox"/> YES <input type="checkbox"/> NO	PIO/AA NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO
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**RELATED INFORMATION (CHECK ALL THAT APPLY OR N/A)**

DEATH	CAUSE OF DEATH	ASSAULT / BATTERY	TYPE OF ASSAULT / BATTERY
<input type="checkbox"/> INMATE <input type="checkbox"/> STAFF <input type="checkbox"/> VISITOR <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> N/A	<input type="checkbox"/> ACCIDENTAL <input type="checkbox"/> NATURAL <input type="checkbox"/> EXECUTION <input type="checkbox"/> UNKNOWN <input type="checkbox"/> HOMICIDE <input type="checkbox"/> SUICIDE <input type="checkbox"/> OVERDOSE <input type="checkbox"/> N/A	<input type="checkbox"/> ON INMATE <input type="checkbox"/> ON STAFF <input type="checkbox"/> ON VISITOR <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> N/A	<input type="checkbox"/> BEATING <input type="checkbox"/> SPEARING <input type="checkbox"/> GASSING <input type="checkbox"/> STABBING <input type="checkbox"/> POISONING <input type="checkbox"/> STRANGLING <input type="checkbox"/> SEXUAL <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> SHOOTING <input type="checkbox"/> SLASHING <input type="checkbox"/> N/A

SERIOUS INJURY	INMATE WEAPONS	TYPE OF WEAPON / SHOTS FIRED / FORCE
<input type="checkbox"/> INMATE <input type="checkbox"/> STAFF <input type="checkbox"/> VISITOR <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> N/A	<input type="checkbox"/> CHEMICAL SUBSTANCE <b>TYPE:</b> <input type="checkbox"/> CLUB / BLUDGEON <input type="checkbox"/> COMMERCIAL WEAPON <input type="checkbox"/> EXPLOSIVE <input type="checkbox"/> INMATE MANUFACTURED WEAPON <input type="checkbox"/> FIREARM <input type="checkbox"/> HANDS / FEET <input type="checkbox"/> KNIFE <input type="checkbox"/> SAP/SLUNG SHOT <input type="checkbox"/> PROJECTILE <input type="checkbox"/> SPEAR <input type="checkbox"/> SLASHING INSTRUMENT: (TYPE) _____ <input type="checkbox"/> STABBING INSTRUMENT: (TYPE) _____ <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> BODILY FLUID <input type="checkbox"/> OTHER FLUID: _____ <input type="checkbox"/> UNKNOWN LIQUID <input type="checkbox"/> N/A	<b>WEAPON:</b> <input type="checkbox"/> MINI 14 <input type="checkbox"/> 38 CAL. <input type="checkbox"/> 9MM <input type="checkbox"/> SHOTGUN <b>LAUNCHER:</b> <input type="checkbox"/> 37MM <input type="checkbox"/> L8 <input type="checkbox"/> 40MM <input type="checkbox"/> 40MM MULTI <input type="checkbox"/> HFWRs <b>FORCE:</b> <input type="checkbox"/> EXPANDABLE BATON <input type="checkbox"/> PHYSICAL FORCE <input type="checkbox"/> X10 <input type="checkbox"/> OTHER: _____
		<b>WARNING #</b> _____ <b>EFFECT #</b> _____ <b>BATON ROUND:</b> <b>TYPE / NO:</b> WOOD _____ RUBBER _____ FOAM _____ <b>STINGER:</b> .32 (A) _____ .60 (B) _____ <b>EXACT IMPACT</b> CTS 4557 _____ XM 1006 _____ <b>CHEMICAL:</b> <input type="checkbox"/> OC _____ <input type="checkbox"/> CN _____ <input type="checkbox"/> CS _____ <input type="checkbox"/> N/A

CONTROLLED SUBSTANCE	WEIGHT	PROGRAM STATUS	EXCEPTIONAL ACTIVITY
<input type="checkbox"/> POSITIVE UA <input type="checkbox"/> CONTROLLED MEDS  <input type="checkbox"/> AMPHETAMINE <input type="checkbox"/> BARBITURATES <input type="checkbox"/> COCAINE <input type="checkbox"/> CODEINE <input type="checkbox"/> HEROIN <input type="checkbox"/> MARIJUANA/THC <input type="checkbox"/> METHAMPHETAMINE <input type="checkbox"/> MORPHINE <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> N/A	<input type="checkbox"/> WITH PACKAGING <input type="checkbox"/> WITHOUT PACKAGING PRELIMINARY   LAB _____ _____ _____ _____ _____	<input type="checkbox"/> MODIFIED PROGRAM <input type="checkbox"/> LOCKDOWN <input type="checkbox"/> STATE OF EMERGENCY  IF YES, LIST AFFECTED PROGRAMS:  <input type="checkbox"/> N/A	<input type="checkbox"/> EMPLOYEE JOB ACTION <input type="checkbox"/> ENVIRONMENTAL HAZARD <input type="checkbox"/> EXPLOSION <input type="checkbox"/> FIRE <input type="checkbox"/> GANG/DISRUPTIVE GROUP <input type="checkbox"/> HOSTAGE <input type="checkbox"/> INMATE STRIKE <input type="checkbox"/> MAJOR DISTURBANCE <input type="checkbox"/> MAJOR POWER OUTAGE <input type="checkbox"/> NATURAL DISASTER <input type="checkbox"/> PUBLIC DEMONSTRATION <input type="checkbox"/> SPECIAL INTEREST I/M  <input type="checkbox"/> WEATHER <input type="checkbox"/> SEARCH WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> OTHER: _____  EXTRACTION: <input type="checkbox"/> CALCULATED <input type="checkbox"/> EMERGENCY  <input type="checkbox"/> N/A

BRIEF DESCRIPTION OF INCIDENT (ONE OR TWO SENTENCES):

COMPLETE SYNOPSIS / SUMMARY ON PART A1

NAME OF REPORTING STAFF (PRINT/TYPE)	TITLE	ID #	BADGE #
SIGNATURE OF REPORTING STAFF		PHONE EXT. (INCIDENT SITE)	DATE
NAME OF WARDEN / AOD (PRINT/SIGN)		TITLE	DATE

**NOTICE OF VISITOR  
WARNING/TERMINATION/SUSPENSION/DENIAL/REVOCAATION**

**DISTRIBUTION:**  
ORIGINAL - Visiting File  
CANARY - Inmate  
PINK - Visitor

TO: (Inmate's Name)	CDC NUMBER	INSTITUTION	UNIT
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REGARDING: (Name of Visitor)

**VISITING VIOLATION**

**ACTION TAKEN (Check the box(es) that apply):**

- |  |  |
|--|--|
| <input type="checkbox"/> Verbal Warning _____<br>DATE  | <input type="checkbox"/> Termination For The Day _____<br>DATE |
| <input type="checkbox"/> Written Warning _____<br>DATE | <input type="checkbox"/> Other: _____<br>DATE                  |

DESCRIPTION OF VISITING VIOLATION INCIDENT:

REASON FOR ACTION TAKEN:

Action taken by \_\_\_\_\_ on \_\_\_\_\_  
PRINT NAME OF OFFICIAL DATE

\_\_\_\_\_  
SIGNATURE OF OFFICIAL

**FINAL ACTION TAKEN (If applicable):**

- |  |   |
|--|---|
| <input type="checkbox"/> One (1) Month Suspension          | <input type="checkbox"/> Six (6) Month Suspension     |
| <input type="checkbox"/> Three (3) Month Suspension        | <input type="checkbox"/> Twelve (12) Month Suspension |
| <input type="checkbox"/> Twenty-four (24) Month Suspension |   |

REASON FOR FINAL ACTION TAKEN:

\_\_\_\_\_  
SIGNATURE OF DIRECTOR / WARDEN / DESIGNEE

\_\_\_\_\_  
(DATE)

The Termination/Suspension/Denial will expire:

- on (DATE) \_\_\_\_\_ after which time you may continue to visit, provided you adhere to all rules and regulations related to visiting within the facility.
- on (DATE) \_\_\_\_\_ after which time you may write a letter to the Warden requesting to have your visiting privileges reinstated. You must also submit a CDC Form 106, Visiting Questionnaire.

Visitors may appeal any action taken above by following the established appeal process outlined in the California Code of Regulations, Title 15, Division 3, Section 3179, Appeals Relating to Visiting.

**NOTICE OF REQUEST FOR SEARCH**  
**CDC 888 (Rev. 01/03)**

VISITOR NAME	NAME OF INMATE VISITED	CDC NUMBER
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Institution staff has cause to suspect that you might be carrying some form of contraband. Consistent with the posted notice at the entrance of this facility, we request your voluntary submission to an unclothed search of your person and any minor(s)\* accompanying you. The search may include your personal possessions and/or your vehicle.

This search will be conducted in private by staff members of the same sex as the adult or minor visitor. If a minor is searched, the parent or legal guardian may be present during the search. A separate form is required for each minor.

<input type="checkbox"/> I VOLUNTARILY AGREE to be searched.	Signature of Visitor
<input type="checkbox"/> I VOLUNTARILY AUTHORIZE the search of: NAME OF MINOR _____ Age _____	*Signature of Visitor (Parent or Legal Guardian) Relationship to Minor:
<input type="checkbox"/> I REFUSE to be searched.	Signature of Visitor
<input type="checkbox"/> I REFUSE TO AUTHORIZE the search of: NAME OF MINOR _____ Age _____	*Signature of Visitor (Parent or Legal Guardian) Relationship to Minor:

**ADVANCED PERMISSION FOR THIS SEARCH WAS SECURED FROM:**

NAME	DATE PERMISSION GRANTED
POSITION	TIME PERMISSION GRANTED
STAFF COMMENTS	

WATCH COMMANDER/VISITING LIEUTENANT SIGNATURE	SIGNATURE DATE	
Staff Member Conducting Search	NAME	POSITION
Staff Member Witnessing Search	NAME	POSITION

**SEARCH RESULTS:**       **POSITIVE**       **NEGATIVE**

DESCRIPTION OF CONTRABAND

**VISITOR IS:**       **PERMITTED** to visit inmate.       **NOT PERMITTED** to visit inmate.

\* Only the parent or legal guardian of a minor may authorize an unclothed body search. Absent positive proof of relationship (i.e., birth certificate, court order, notarized authorization by parent or legal guardian), a search of a minor will **not** be conducted and visiting will not be allowed.

**DISTRIBUTION:** ORIGINAL - C-File (Visiting)  
CANARY - Institution Head  
PINK - Investigator's File  
GOLD - Visitor