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July 24, 2017

SECOND NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

Pursuant to the provisions of Government Code sections 11346.8(c) and 11349.4, and section 44 of Title 1 of the California Code of Regulations (CCR), the California Department of Corrections and Rehabilitation (CDCR) is providing notice of proposed changes made to CCR sections 3349, 3349.1, 3349.2, 3349.3, 3349.4, 3349.5, 3349.6, 3349.7, 3349.8, and 3349.9 regarding the administration of the death penalty by lethal injection.

The Department has determined that additional amendments to the proposed text are necessary, following the initial Notice Of Change To Text As Originally Proposed.

You are receiving this notice because you provided written comment during the public comment period (including comments sent via email or fax), commented at the public hearing held on January 22, 2016, expressed an interest in receiving notice of changes, commented on the Notice of Change to Text as Originally Proposed, or are directly affected by this rulemaking action.

To provide notice of the proposed changes to the public, this Notice will be posted on the CDCR Internet website at:

http://www.cdcr.ca.gov/Regulations/Adult_Operations/Pending_Rules_Page.html

Amendments to the proposed text contained in the Notice of Change to Text as Originally Proposed are indicated by ~~bold dotted underline~~ for newly added text and ~~bold dotted underline strikethrough~~ for deleted text. The single underline and strikethrough formatting from the original proposed text noticed to the public November 6, 2015, and the bold double underline and bold ~~double strikethrough~~ from the Notice of Change to Text as Originally Proposed noticed to the public February 28, 2017, are retained. These proposed changes are being made available for public comment.

The attached text contains the following changes:

3349.1 Definitions.

Subsection 3349.1(d) is amended to replace the reference to the CDCR Form 2177 with references to new CDCR Forms 2177-A and 2177-B. This change is described in the *Modification to Forms* section on beginning on page 7 of this document. This subsection is also amended to correct the title of the CDCR Form 2181.

Subsection 3349.1(h) is amended to replace the term “substance” with “barbiturate” for improved clarity and specificity.

New subsection 3349.1(i) is adopted to provide a definition for the phrase “Lethal Injection Chemical Supplier”. This phrase will replace the term “manufacturer” used elsewhere throughout the proposed text. This is necessary to address concerns raised by commenters regarding the type of facilities from which the Department will procure the Lethal Injection Chemical. The Department determined the term “manufacturer” was too specific and implied that the chemical would be procured from one specific type of supplier. The new definition makes clear that the chemical may be procured from entities other than a manufacturer (i.e.,

licensed pharmacy, pharmacist, or compounding pharmacy, or supplier, wholesaler, or distributor).

Former proposed subsections 3349.1(i) through (t) are renumbered to 3349.1(j) through (u) to accommodate new subsection 3349.1(i).

3349.2. Recruitment, Selection and Annual Review of Lethal Injection Team Members.

Subsection 3349.2(d)(2)(A) is amended to replace the term “manufacturer” with “Lethal Injection Chemical Supplier” as defined in newly adopted subsection 3349.1(i). This is necessary to address concerns raised by commenters regarding the type of facilities from which the Department will procure the Lethal Injection Chemical, as described above in subsection 3349.1(i).

3349.3 Lethal Injection Team Training

Subsection 3349.3(f)(3) is amended to replace the term “Numbering” with “Labeling” to more accurately describe the process Infusion Sub-Team members will follow when preparing the syringes used in the lethal injection process by accounting for letter and number designations, as described under subsection 3349.6(i)(4).

Subsection 3349.3(h)(2) is amended to correct the names of two forms used in the Lethal Injection process (CDCR Forms 2179 and 2181). The names of these forms as written in this subsection did not match the names on the forms themselves. This subsection is also amended to replace CDCR Form 2177 with new forms 2177-A and 2177-B, as described in the *Modification to Forms* section on page 7 of this document

3349.5 Responsibilities and Tasks Upon Receipt and Service of the Execution Warrant.

Subsection 3349.5(f)(1)(C) is amended to remove Amobarbital and Secobarbital from the list of chemicals that may be used in the Lethal Injection process. These chemicals were removed in response to public comment that raised questions about the availability of these chemicals in the form needed by the Department, and whether these chemicals could be used as established in the proposed regulations. Additionally, in reviewing lethal injection protocols of other states that use a single drug, neither Amobarbital nor Secobarbital are currently used in executions (Rulemaking File documents relied upon, Vol. VII, documents 3, 4, 5, 6, 7, 8, and 9; and Vol. IX, documents 1, 2, 3, and 4). In light of this information, the Department elected to remove these chemicals as options in the lethal injection process. This subsection was also amended to add “Rev.” before the revision date of the CDCR Form 1801-A because this form already exists in regulations and is being revised as part of this rulemaking action.

The original Initial Statement of Reasons for this subsection (and subsection 3349.6(h)(3) and under the section titled Consideration of Alternatives) noticed to the public in November 2015, contained the following statement: “All named barbiturates contained in the proposed regulations are equal to, or greater than, Thiopental in strength.” After consideration of a public comment from a professor of pharmacology regarding the four chemicals originally established in the regulations, the Department believes that this statement is not sufficiently clear, as the meaning was not interpreted by the public as intended. The Department believes the remaining Lethal Injection Chemicals, Pentobarbital and Thiopental, are both effective in carrying out the purpose of the proposed regulations.

Subsection 3349.5(f)(1)(D) is amended to replace the phrase “licensed pharmaceutical facility or distributor” with the phrase “Lethal Injection Chemical Supplier as defined in subsection 3349.1(i)”. This is necessary to address concerns raised by commenters regarding the type of facilities from which the Department will procure the Lethal Injection Chemical, as described in subsection 3349.1(i) on page 1 of this document.

Subsection 3349.5(f)(1)(E) is amended to replace the term “any” with “either” for improved clarity and grammar, as the number of chemicals available for use in the Lethal Injection process has been reduced from four to two.

3349.6 Chronology of Events After Execution Warrant Has Been Served

Subsection 3349.6(i)(1)(B) is amended to correct the title of CDCR Form 2181.

Subsection 3349.6(i)(1)(E) is amended to replace the reference to the CDCR Form 2177 with references to new CDCR Forms 2177-A and 2177-B to reflect changes to the process described in subsection 3349.6(i)(4)(A) on page 3 of this document and in the note regarding *Modification to Forms* beginning on page 7 of this document.

Subsection 3349.6(i)(2)(B) is amended for clarity. This subsection previously stated “A sedative is available upon request. If requested by the inmate, the sedative shall be administered under the direction and approval of a physician” and shall now state “A sedative may be requested, and if approved by a physician, the sedative shall be administered under their direction.” This change was necessary to clarify that the request for a sedative, like any request for medical care by any inmate at any time, is subject to review and approval by a physician. This change was made in response to public comments which questioned the clarity of this provision.

New Subsection 3349.6(i)(3) is adopted. The provision to mix the chemical according to instructions provided by the manufacturer was previously numbered 3349.6(i)(3)(D). It has been moved to subsection 3349.6(i)(3) for clarity to distinguish the process of chemical preparation from the subsequent process of preparation for administration (i.e., filling and labeling syringes) and amended to replace “manufacturer” with “Lethal Injection Chemical Supplier” to address concerns raised by commenters regarding the type of facilities from which the Department will procure the Lethal Injection Chemical, as described in subsection 3349.1(i) on page 1 of this document. The term “mix” has been replaced with “prepare” for clarity. The Department may be able to procure the chemical from the Lethal Injection Chemical Supplier in a form that does not require mixing.

New Subsection 3349.6(i)(4) is adopted to introduce subsequent provisions regarding preparation for administration of the Lethal Injection Chemical as described in subsections 3349.6(i)(4)(A) through (F).

Subsection 3349.6(i)(4)(A) (formerly 3349.6(i)(3)(A)) is amended to establish provisions for the means of administration of Pentobarbital, if that chemical is selected as the Lethal Injection Chemical. In previous drafts of the proposed regulations, any of four chemicals could be selected for use, and the means of administration for all four was identical. As described in subsection 3349.5(f)(1)(C) on page 2 of this document, two of the chemicals originally provided for by the proposed regulations have been eliminated. The remaining chemicals, Pentobarbital and Thiopental, will require different means of administration, as described below. Pentobarbital will be infused by means of three syringes, each containing 2.5 grams of the chemical. In

reviewing execution protocols of other states that use Pentobarbital, fewer than five syringes are used to administer this chemical (Rulemaking File documents relied upon, Vol. VII, documents 7 and 8; Vol. IX, documents 1, 2 and 4). The Department determined that using fewer syringes for Pentobarbital is preferable for simplicity of preparation of the syringes. Using 2.5 grams each in three syringes comports with the 7.5 gram total dose. The provision for a single syringe of saline flush remains unchanged from earlier versions of the proposed text noticed to the public.

The requirement to use 7.5 grams of Lethal Injection Chemical per tray is unchanged from the original text noticed to the public and the Notice of Change to Text of Proposed Regulations. The *Morales* Plaintiffs' medical expert has agreed that 5 grams of Thiopental would cause death. (Rulemaking File documents relied upon: Vol. VI, Document 5 (pp. 542-543). A 1.5 gram bolus dose of Thiopental will result in unconsciousness (Rulemaking File documents relied upon: Vol. VI, Document 7 (p. 9)). Bolus means a quantity of medicine given at a controlled, rapid rate. Barbiturates rapidly penetrate the brain to induce anesthesia and are then quickly redistributed to other tissues. Thus administration of continuous bolus doses is required. (Rulemaking File documents relied upon: Vol. I, Document 12 Olson et al., *Poisoning & Drug Overdose*, Sixth Edition, McGraw-Hill (2011) p. 136). When the Lethal Injection Chemical is administered in continuous bolus doses via an intravenous line, rapid anesthesia followed by death without pain or suffering will result.

The purpose of the proposed regulations is to administer a fatal dose. Both Pentobarbital and Thiopental are effective in carrying out the purpose of the proposed regulations. Although 5g of Thiopental has been recognized as lethal, there is documentation showing that some inmates have continued to breathe after injection of 5 grams of Thiopental (Rulemaking File documents relied upon: Vol. VI, Document 7, p. 4). CDCR has elected to administer an additional 2.5 grams, beyond the 5 grams recognized as lethal, for a total of 7.5 grams, to take into account the inmates' Lethal Injection Chemical tolerance, age, size, or weight, to carry out the purpose of the proposed regulations. Further, the additional 2.5 grams was selected for simplicity and consistency, allowing an equal dose per syringe of Lethal Injection Chemical. If at any time during the infusion process death is declared by a physician, the lethal injection process shall cease.

New Subsection 3349.6(i)(4)(B) is adopted to establish provisions for the preparation for administration of Thiopental, if that chemical is selected as the Lethal Injection Chemical. This chemical shall be administered by means of five syringes, as described in previous regulatory texts as part of this rulemaking action. The requirement to use five syringes and a single syringe containing saline flush is unchanged.

Subsection 3349.6(i)(4)(C) (formerly 3349.6(i)(3)(B)) is amended to add the language "for administration" to clarify that the preparation of the Lethal Injection Chemical described in this provision refers specifically to the Infusion Sub-Team preparing the syringes and trays for administration, rather than the preparation of the chemical itself described in subsection 3349.6(i)(3) on page 3 of this document.

Subsection 3349.6(i)(4)(D) (formerly 3349.6(i)(3)(C)) is amended, and subsections 3349.6(i)(4)(D)1. and 2. are adopted to establish provisions for the labeling and color-coding of the syringes used to infuse Pentobarbital, and the preparation of the three trays that will hold the syringes. Labeling and color-coding of the syringes and trays is necessary for organization and to visually aid in distinguishing the primary, backup, and alternate backup syringes and trays. Labeling by content is not necessary as there are now two separate means of

administration that will be utilized for each of the two Lethal Injection chemicals. This subsection is also amended to remove the references to 60cc syringes. The references to the specific size of syringe are being removed because the Department will follow the instructions provided by the Lethal Injection Chemical Supplier, which may include instructions regarding the size of the syringe to be used.

Subsections 3349.6(i)(4)(E), and 3349.6(i)(4)(E)1. and 2. are adopted to establish provisions for the labeling and color-coding of the syringes used to infuse Thiopental, and the preparation of the three trays that will hold the syringes. Labeling and color-coding of the syringes and trays is necessary for organization and to visually aid in distinguishing the primary, backup, and alternate backup syringes and trays.

Former Subsection 3349.6(i)(3)(D) is deleted. This provision is now referenced in subsection 3349.6(i)(3).

Subsection 3349.6(i)(4)(E) is renumbered to (F) to accommodate new subsections pertaining to the preparation for administration, including labeling and color-coding of syringes of the designated Lethal Injection Chemical.

Subsection 3349.6(l)(1)(B) is amended to correct the title of the CDCR Form 2179.

3349.7 Administration of the Lethal Injection Chemical.

Subsections 3349.7(a)(3) and (a)(5) are amended. Subsection 3349.7(a)(3) is amended to replace the word “two” with “three” to establish that after the inmate is secured to the gurney, all three injection sites described in subsection 3349.5(f)(6) shall have catheters inserted and intravenous lines shall be attached to the catheters. Previously, the regulation text did not require a catheter to be inserted into the alternate backup site unless it became necessary to utilize that site. The Department determined that inserting all three catheters to be ready for use prior to the beginning of the infusion process, rather than having to insert the alternate backup catheter after the infusion process has begun, is necessary to avoid delay during the infusion process. Subsection 3349.7(a)(5) is amended to add “and alternate backup” to the text, which is necessary with the amendment to 3349.7(a)(3).

Subsection 3349.7(c)(2) is amended to establish that the intravenous saline drip shall be maintained in both the backup and alternate backup lines after the saline drip in the primary intravenous catheter is stopped. This is necessary due to the amendment to subsection 3349.7(a)(3), on page 5 of this document, which established that the alternate backup catheter would be established prior to the beginning of the infusion process. Also, the sentence “Should the backup or alternate backup intravenous line be designated for infusion, the saline drip for that catheter shall be stopped prior to the infusion of the first syringe” is added to the last sentence to clarify that the saline drip for the intravenous catheter that will be used in the infusion process shall be stopped prior to infusion of the Lethal Injection Chemical (i.e., if the process moves to the backup or alternate backup catheter, the saline drip for that catheter shall be stopped prior to infusion).

Subsection 3349.7(c)(4) is amended to establish specific provisions for the administration of Pentobarbital, if that chemical is selected as the Lethal Injection Chemical.

Subsection 3349.7(c)(4)(A), (B), and (C) are amended to remove the references to 60cc syringes. The references to the specific size of syringe are being removed because the

Department will follow the instructions provided by the Lethal Injection Chemical Supplier, which may include instructions regarding the size of the syringe to be used. Additionally, it is not necessary to specify the size of the syringe, only the dose of the Lethal Injection Chemical. The quantity of saline used shall be the amount necessary to flush the intravenous line.

Former proposed subsections 3349.7(c)(4)(D) and (E) are deleted. These provisions are no longer needed as Pentobarbital will now be administered by means of three, rather than five, syringes.

Former proposed subsection 3349.7(c)(4)(F) is renumbered to (D) and amended to remove the reference to a 60cc syringe (see subsection 3349.7(c)(4)(A) on page 5 of this document) and to renumber the syringe referred to in this subsection to #4, as a result of the deletion of subsections 3349.7(c)(4)(D) and (E) above.

New subsections 3349.7(c)(5) and 3349.7(c)(5)(A) through (F) are adopted to establish specific provisions for the administration of Thiopental, if that chemical is selected as the Lethal Injection Chemical. Thiopental will be administered by means of five syringes, and a sixth syringe shall contain a saline flush. The process with respect to the administration of Thiopental is unchanged from the original proposed text and the renoticed text. The process established in new subsection 3349.7(c)(5)(A) regarding the consciousness check is also unchanged from earlier versions of the proposed text noticed to the public.

Former proposed subsections 3349.7(c)(5) and 3349.7(c)(6) are renumbered to 3349.7(c)(6) and (c)(7) respectively.

Subsection 3349.7(c)(7)(B) is amended to remove the phrase “or series of syringes”. This phrase referred to the two sets of five syringes in addition to Trays A, B, and C, which were established in subsection 3349.7(d)(5) in the proposed text originally noticed to the public (and subsections 3349.7(c)(12) and (13) in the Notice of Change to Text as Originally Proposed). As described on page 7 of this document in subsections 3349.7(c)(12) and (13), these two sets of syringes have been removed from the proposed regulations. Also, the reference to subsections 3349.7(c)(3) through (c)(6) has been changed to (c)(2) through (c)(6), as the provision established in 3349.7(c)(2) is a necessary part of the infusion process, irrespective of the tray or intravenous catheter being used.

Subsections 3349.7(c)(7), (8), (9), and (10) are renumbered to 3349.7(c)(8), (9), (10), and (11) respectively to accommodate new subsection 3349.7(c)(5).

Subsections 3349.7(c)(10) and (11) (formerly 3349.7(c)(9) and (10)) are amended to remove the term “six” from both subsections, as the number of syringes per tray will now depend on which Lethal Injection Chemical has been designated for use in the scheduled execution. Additionally, both subsections have been amended to replace references to subsection 3349.7(c)(8) with (c)(9) due to the renumbering of these subsections, as described above. Subsection 3349.7(c)(10) is amended to add the phrase “or an intravenous site cannot be maintained at the primary site” to the first sentence to establish that the inability to maintain the primary intravenous site shall require the San Quentin Warden to direct that the infusion process shall move to the backup intravenous catheter and Tray B. This is necessary for clarity. Previously, subsection 3349.7(c)(11) stated that the infusion process would move to Tray C if “an intravenous site cannot be established or maintained at either the primary or backup site”. The Department determined that these provisions would be clarified by amending subsection 3349.7(c)(10) to include the requirement to move to the next tray in the event the primary site

cannot be maintained, and amending subsection 3349.7(c)(11) to remove reference to the primary site and to the establishment of the backup site. Also, the references to subsections 3349.7(c)(3) through (c)(9) have been changed to (c)(2) through (c)(9), as the provision established in 3349.7(c)(2) is a necessary part of the infusion process, irrespective of the tray or intravenous catheter being used.

Former subsections 3349.7(c)(11), (c)(11)(A) through (c)(11)(D) are deleted. These subsections described a process for the establishment of the alternate backup intravenous site. The requirement to establish all three catheters has been incorporated into subsection 3349.7(a)(3) on page 5 of this document, and is therefore not needed here.

Subsections 3349.7(c)(12) and (c)(13) are deleted. These subsections established processes for the infusion of two sets of five additional syringes, in the event all syringes from Tray A, B, and C had been infused and death had not been declared. In reviewing execution protocols of other states that use Pentobarbital or Thiopental, fourth or fifth backup trays or sets of syringes are not utilized. (Rulemaking File documents relied upon, Vol. VII, documents 7 and 8; Vol. IX, documents 1, 2, 3 and 4) Accordingly, the Department has determined the two additional sets of syringes are unnecessary. The protocol calls for three trays of syringes, with each tray containing a total of 7.5 grams of Lethal Injection Chemical, for a total of 22.5 grams available for infusion through three separate sites (primary, backup, alternate backup). These trays and infusion sites provide sufficient safeguards should the Lethal Injection Team encounter difficulties maintaining an intravenous line, or should death not be declared after infusion of the initial tray of Lethal Injection Chemical.

Former subsection 3349.7(c)(14) is renumbered to (c)(12) and is amended to remove references to ten syringes and subsections 3349.7(c)(12) and (13), as these subsections and the ten syringes they describe have been deleted (see above). This subsection now specifies the course of action that the San Quentin Warden is required to take in the event that all syringes from Tray C have been administered and death has not been declared after ten minutes, or if an intravenous site cannot be maintained at the alternate backup site. These amendments will make the provisions of this subsection consistent with subsections 3349.7(c)(10) and (11).

3349.9 Lethal Injection Record Keeping and Documentation.

Subsections 3349.9(e)(16), (17), (19), and (20) are amended to correct the titles of forms 2176, 2179, and 2181, and to replace the reference to the deleted form 2177 with new forms 2177-A and 2177-B.

Additionally, typographical errors and non-substantive errors of grammar, punctuation, capitalization, etc., have been corrected throughout the regulatory text.

Modifications to Forms

CDCR Form 2176, Lethal Injection Chain Of Custody San Quentin State Prison is amended to remove the term “protocol” from the first sentence, as this term is unnecessary, and to replace “Pharmacy or Distributor” with “Lethal Injection Chemical Supplier” in Steps 1 and 2, consistent with the adoption of new subsection 3349.1(i), as described on page 1 of this document. The term “vial” has been replaced with “package” in all steps, as the Lethal Injection Chemical may not be received in vials. Additionally, non-substantive changes have been made for clarity, including capitalization and adding “Sub-” before “Team” and removing the

unnecessary hyphen from the form title. For clarity, changes to this form are shown in single underline and ~~strikethrough~~ format.

CDCR Form 2177 San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log is deleted. Due to the changes described in subsections 3349.6(i)(4)(A) - (E) on pages 3-5 of this document, the provisions that were to be logged on this form have been separated into two new forms, which are incorporated by reference. In previous drafts of the proposed regulations, any of four chemicals could be selected for use, and the means of administration for all four was identical. As described in subsection 3349.5(f)(1)(C) on page 2 of this document, two of the chemicals originally provided for by the proposed regulations have been eliminated. The remaining chemicals, Pentobarbital and Thiopental, require different numbers of syringes for infusion, pursuant to the requirements established in the regulations. Rather than require that a single form be used to document the infusion of both Pentobarbital and Thiopental, the Department determined it was clearer and simpler to create two separate forms; the CDCR Form 2177-A for Pentobarbital and CDCR Form 2177-B for Thiopental (as described on page 8 of this document).

CDCR Form 2179 San Quentin State Prison Lethal Injection Intravenous Sub-Team Execution Log is amended to move former steps 28-30 to 11-13, regarding the establishment of the alternate backup catheter to follow the establishment of the primary and backup catheters, as described in subsection 3349.7(a)(3) on page 5 of this document. The requirement to check the catheter in use for patency if the inmate is not unconscious during a consciousness check has been added. This provision existed in the text (subsection 3349.7(c)(6)) and is being added to the form for clarity. Instructions have been added to make clear that specified steps will be necessary only if Thiopental is the designated Lethal Injection Chemical, as described in subsections 3349.6(i)(4)(A) and (B) on pages 3-4 of this document. Additionally, steps for the infusion of the two sets of five syringes following Tray C have been deleted, as these sets of syringes have been removed from the proposed regulations, as described in subsections 3349.7(c)(12) and (13) as described on page 7 of this document. For clarity, changes to this form are shown in single underline and ~~strikethrough~~ format.

CDCR Form 2181, San Quentin State Prison Lethal Injection Team Administrator / Team Supervisor Execution Log is amended to remove steps for the infusion of the two sets of five syringes following Tray C, as these sets of syringes have been removed from the proposed regulations, as described in subsections 3349.7(c)(12) and (13) as described on page 7 of this document. For better clarity, the language contained in the second bullet point under Step 4 has been amended to use the exact text of subsection 3349.6(i)(2)(B). The form title in the page header has been corrected. Additional, non-substantive revisions have been made for improved clarity. For clarity, changes to this form are shown in single underline and ~~strikethrough~~ format.

New Forms to be Adopted as Part of Rulemaking Action

CDCR Form 2177-A San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Pentobarbital, is incorporated by reference into the regulatory text. This form contains the step by step processes the Infusion Sub-Team shall follow, previously logged on the CDCR Form 2177 (now deleted) but specific to the infusion of Pentobarbital, as described in subsections 3349.6(i)(4)(A), (C), and (D) as described on pages 4-5 of this document. The form is a procedural log used both during training and during the actual execution process to ensure all required steps are completed and documented.

CDCR Form 2177-B San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Thiopental, is incorporated by reference into the regulatory text. This form contains the step by step processes the Infusion Sub-Team shall follow, previously logged on the CDCR Form 2177 (now deleted) but specific to the infusion of Thiopental, as described in subsections 3349.6(i)(4)(B), (C), and (E) as described on pages 4-5 of this document. The form is a procedural log used both during training and during the actual execution process to ensure all required steps are completed and documented.

Documents Relied Upon Added to the Rulemaking File

Pursuant to Government Code sections 11346.2 and 11347.1, the following documents have been added to the rulemaking file as documents relied upon under Attachment I (Volume IX):

- Georgia Department of Corrections, Lethal Injection Procedures (July 17, 2012)
- Idaho Department of Correction, Execution Procedures (Adopted May 18, 1998, reviewed January 6, 2012)
- Texas Department of Criminal Justice, Execution Procedure (July 2012)
- Ohio Department of Rehabilitation and Correction, Number 01-COM-11, Execution Policy (October 7, 2016)

Note: the document relied upon added to the rulemaking file under Attachment H as part of the first Notice of Change to Text as Originally Proposed was erroneously labeled as being part of Volume VII of the rulemaking documents relied upon. This document should have been labeled Volume VIII.

These documents are available for review Monday through Friday from 8:00 am to 5:00 pm at CDCR headquarters at 1515 S Street, Sacramento, CA 95811, until the end of the second renote public comment period Monday, August 14, 2017. If you wish to view these documents please contact the Department's Contact Person listed below.

Contact Person

Inquiries regarding this notice should be directed to Timothy M. Lockwood, Associate Director, Regulation and Policy Management Branch (RPMB), California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2269 or e-mail at LI.comments@cdcr.ca.gov. In the event the contact person is unavailable, inquiries should be directed to Joshua Jugum, RPMB, at (916) 445-2228.

Submission of Public Comments

The comment period for these revisions will close on Monday, August 14, 2017. Please submit comments by e-mail to LJ.Comments@cdcr.ca.gov; in writing to Timothy M. Lockwood, Associate Director, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA, 94283-0001; or by fax to (916) 324-6075, before the close of the public comment period. Comments must be received or postmarked no later than 5:00 p.m. on Monday, August 14, 2017. Only those comments relating directly to the enclosed amendments described in this Second Notice of Change to Text as Originally Proposed will be considered.

Original Signed By:

TIMOTHY M. LOCKWOOD, Associate Director
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation

Attachment

TEXT OF PROPOSED REGULATIONS – SECOND RENOTICE

In the following, **double underline** indicates text added since the original notice of change to regulations and **~~double strikethrough~~** indicates text deleted. **dotted underline** indicates text added since the Notice of Change to Regulations as Originally Proposed and **~~dotted underline with strikethrough~~** indicates text deleted. The single underline and strikethrough formatting from the original proposed text noticed to the public has been retained.

California Code of Regulations, Title 15, Division 3.

Subchapter 4. GENERAL INSTITUTION REGULATIONS

Title to Article 7.5 is amended to read:

Article 7.5. ~~Execution~~ Administration of Death Penalty

3349. Method of Execution.

Subsections 3349(a) through 3349(d) are amended to read:

(a) Inmates sentenced to death shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. Upon being served with the warrant of execution, the inmate shall be served with ~~CDCR Form 1801-B (4/98), Service of Execution Warrant, Warden's Initial Interview.~~ CDCR Form 1801-B (Rev. 10/15), Service of Execution Warrant, Warden's Initial Interview, which is incorporated by reference. The completed CDCR Form 1801-B shall be transmitted to the San Quentin Wwarden.

(b) The inmate shall be notified of the opportunity ~~for such selection~~ to elect lethal gas or lethal injection and that, if the inmate does not choose either lethal gas or lethal injection within ten calendar days after being served with the execution warrant, the penalty of death shall be imposed by lethal injection. The inmate's attestation to this service and notification shall be made in writing and witnessed utilizing the CDCR Form 1801 (Rev. 4/98/10/15), Notification of Execution Date and Choice of Execution Method, which is incorporated by reference. The completed CDCR Form 1801 shall be transmitted to the San Quentin Wwarden.

(c) The inmate's selection shall be made in writing and witnessed utilizing the CDCR Form 1801-A (Rev. 4/98/10/15), Choice of Execution Method, which is incorporated by reference. The completed CDCR Form 1801-A shall be transmitted to the San Quentin Wwarden.

(d) The inmate's selection shall be irrevocable, with the exception that, if the inmate sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the ~~person~~ inmate again shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection, according to the procedures set forth in Sections (a), (b), and (c).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 1227, 3603, 3604, and 5054, Penal Code.

New Section Title 3349.1 is adopted to read:

3349.1 Definitions

New 3349.1 Presentence is adopted to read:

For the purpose of Subchapter 4, Article 7.5, the following definitions shall apply:

New Subsections 3349.1(a) through 3349.1(t) are adopted to read:

(a) *Administrative Assistant - Public Information Officer* means the staff member or members responsible for responding to media inquiries and other duties as assigned.

(b) *Alienists* means the psychiatrists, all of whom must be from the medical staff of the California Department of Corrections and Rehabilitation, who treat mental disorders and who specialize in related legal matters.

(c) *Designated Security Housing* means the location at San Quentin where a condemned male inmate shall be housed ~~approximately~~ 5 calendar days prior to a scheduled execution to include: Adjustment Center, East Block, North Segregation, or any other area designated by the San Quentin Warden.

(d) *Execution Report* means the documents the Team Administrator routes through the San Quentin Chief Deputy Warden for the San Quentin Warden's review and signature after an execution. The Execution Report shall include: a CDCR Form 2177-~~A~~ **San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Pentobarbital or CDCR Form 2177-B San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Thiopental**, CDCR Form 2179 San Quentin State Prison Lethal Injection Intravenous Sub-Team Execution Log, CDCR Form 2181 **San Quentin State Prison Lethal Injection Team Administrator/Team Supervisor Execution Log**, CDCR Form 2182 Lethal Injection Team Supervisor Execution Report, CDCR Forms 2183 Execution Report Team Member from all Lethal Injection Team members, and any documented use of force in accordance with Section 3268.1, Reporting and Investigating the Use of Force for Institution/Facility Staff. In addition, the Execution Report shall include all appropriate supplemental reports.

(e) *Infusion Control Room* means the space allocated for the Lethal Injection Chemical preparation area and is the room designed to accommodate the Infusion Sub-Team, designated members of the Intravenous Sub-Team, the Team Administrator, Team Supervisor, designated members of the Record Keeping Sub-Team, San Quentin Litigation Coordinator, and one representative each from the Governor's Office, the Inspector General's Office, and the Attorney General's Office.

(f) *Infusion Sub-Team* means the Lethal Injection Team members who are responsible for receiving the Lethal Injection Chemical, preparation of the Lethal Injection Chemical, drawing the Lethal Injection Chemical into syringes, labeling and color coding the syringes and infusing the Lethal Injection Chemical.

(g) *Intravenous Sub-Team* means the Lethal Injection Team members who are responsible for: placing electrocardiogram leads, insertion of the intravenous catheters, attaching and monitoring the intravenous lines, performing consciousness checks, and crimping, uncoupling, and detaching the intravenous lines.

(h) *Lethal Injection Chemical* means a ~~substance~~ **barbiturate** used to perform an execution.

(i) *Lethal Injection Chemical Supplier* means a ~~licensed pharmacy, pharmacist, or compounding pharmacy, or a manufacturer, supplier, wholesaler, or distributor.~~

(j) *Lethal Injection Facility* means the dedicated structure at San Quentin consisting of three witness viewing rooms, an Infusion Control Room, the Lethal Injection Facility Holding Area, restrooms and the Lethal Injection Room.

(jk) Lethal Injection Facility Holding Area means the cell and associated area where the inmate is held prior to an execution.

(kl) Lethal Injection Room means the room where the inmate is executed.

(lm) Lethal Injection Team means the individuals that comprise the three sub-teams described in this Article.

(mn) Master Execution File means the permanent record of all documents related to an execution that is maintained in the San Quentin Warden's office complex.

(no) Ministers of the Gospel means a person serving as an agent specific to a system of beliefs.

(op) Pre-Execution Logbook means a record of documentation of the condemned inmate's activities, requests, conduct and behavior, which shall commence upon receipt of the execution warrant.

(oq) Record Keeping Sub-Team means the Lethal Injection Team members who are responsible for documenting each element of the execution and for assembling those documents for inclusion in the Master Execution File.

(or) Selection Panel means the Associate Director –Reception Centers, the San Quentin Warden, and the Team Administrator who recruit and select the Team Supervisor and Team members.

(os) Spiritual Advisor means a person who, by profession or practice, provides spiritual advice, assistance, or guidance.

(ot) Team Administrator means the Associate Warden who is responsible for providing managerial oversight of the Lethal Injection Team's training, preparation and the performance of assigned duties during an execution.

(ou) Team Supervisor means the Captain who is responsible for providing direct supervision of the Lethal Injection Team's training, preparation and performance of assigned duties during an execution.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections, 190, 3600, 3601, 3602, 3603, 3605, 3607, 3700, 3700.5, 3701, 3702, 3703, 3704 and 5054, Penal Code; *Baze v. Rees* (2008) 553 U.S. 35 and *Towery v. Brewer* (2012) 672 F.3d 650.

New Section Title 3349.2 is adopted to read:

3349.2 Recruitment, Selection and Annual Review of Lethal Injection Team Members.

New Subsections 3349.2(a) through 3349.2(a)(2)(E) are adopted to read:

(a) Recruitment and Selection Process.

(1) The Director - Division of Adult Institutions, or designee, and the San Quentin Warden shall recruit and select an Associate Warden to serve as the Team Administrator. The Team Administrator is not a member of the Lethal Injection Team, but the screening criteria set forth in subsections (b)(2) and (3) and (c)(1)-(8) shall apply.

(2) The Director - Division of Adult Institutions, or designee, with the Selection Panel, shall recruit and select the Team Supervisor and the Lethal Injection Team members. The Team Supervisor is not a member of the Lethal Injection Team, but the screening criteria set forth in subsections (b)(2) and (3) and (c)(1)-(8) shall apply. The Lethal Injection Team shall consist of CDCR employees, or contracted medical personnel, or a combination of both, and shall comprise a minimum of 12 members who shall be assigned to one of three sub-teams and who shall serve at the will of the Director – Division of Adult Institutions. The Team Administrator shall assist the Director – Division of Adult Institutions, or designee, with coordinating the recruitment and selection of prospective candidates for the Team Supervisor and the Lethal Injection Team members.

(A) The Selection Panel shall review qualifications, interview prospective candidates, and select the Team Supervisor and Lethal Injection Team members. The Associate Director – Reception Centers shall chair the Selection Panel and ensure the Team Supervisor and Lethal Injection Team members are selected consistent with the criteria established in this section. After the Panel selects the Lethal Injection Team members, the Team Administrator shall assign each member to one of the following Sub-Teams: Intravenous Sub-Team, Infusion Sub-Team, or Record keeping Sub-Team pursuant to the criteria as set forth in subsection (d) below. Each sub-team shall have a minimum of four members.

(B) The Team Administrator shall select an Intravenous Sub-Team leader from among the ~~four~~ Intravenous Sub-Team members. The Intravenous Sub-Team leader shall be qualified in his or her profession to supervise medically trained personnel. The Intravenous Sub-Team leader shall be responsible for determining training curriculum for duties identified in subsection (d)(1) for the Intravenous Sub-Team, assessing performance of each Intravenous Sub-Team member during training and executions, and reporting any concerns about any Intravenous Sub-Team member to the Team Administrator and the Team Supervisor.

(C) The Team Administrator shall select an Infusion Sub-Team leader from among the ~~four~~ Infusion Sub-Team members. The Infusion Sub-Team leader shall be qualified in his or her profession to supervise medically trained personnel. The Infusion Sub-Team leader shall be responsible for determining training curriculum for duties identified in subsection (d)(2) for the Infusion Sub-Team, assessing performance of each Infusion Sub-Team member during training and executions, and reporting any concerns about any Infusion Sub-Team member to the Team Administrator and the Team Supervisor.

(D) The CDCR may contract with medical personnel or a pharmacist to be members of the Lethal Injection Team. The CDCR may also contract with a physician to serve as the physician attending the execution to declare death. Contracting is permitted so long as the contract does not displace a qualified state civil service employee who is available and willing to perform the prescribed duties. Contract personnel shall meet all the criteria set forth in subsections (b), (c), and (d)(1)-(3).

(E) Names and identities of the Lethal Injection Team members shall remain confidential.

New Subsections 3349.2(b) through 3349.2(b)(3)(B)2. are adopted to read:

(b) Screening of Lethal Injection Team Candidates.

(1) The Selection Panel shall screen and ensure each candidate meets the criteria established for membership on one of the three designated sub-teams as set forth in subsection (d) below.

(2) The Selection Panel screening process shall include:

(A) Review of all the candidates available performance evaluations.

(B) Review of the candidate's official personnel, supervisory, and training files.

(C) Review of the candidate's current Criminal Identification and Information Report from the California Department of Justice.

(3) As part of the screening process, the Selection Panel shall interview each candidate to determine the following:

(A) Personal history and background.

(B) Professional experience, including the following:

1. Professional experiences that would aid the candidate in performing Lethal Injection Team member duties.

2. Knowledge, composure, training, related skill and ability.

New Subsections 3349.2(c) through 3349.2(c)(8) are adopted to read:

(c) Criteria for Lethal Injection Team membership. Each Lethal Injection Team member shall be selected based on general qualifications and specific expertise necessary to effectively carry out the duties of one of the specialized sub-team functions. The following general criteria shall be utilized in the selection of all Lethal Injection Team members:

(1) Permanent full time CDCR employee or contracted employee.

(2) History of reliable job performance and professional demeanor.

(3) Reliable attendance record.

(4) No corrective action.

(5) No sustained adverse action as reflected in the CDCR Official Personnel File or State Personnel Board records.

(6) Most recent annual employee performance evaluation or comparable private sector performance evaluation shall meet or exceed expected standards in all rated areas.

(7) Shall not be on probation in the candidate's current classification. This does not apply to promotions made subsequent to initial placement on the Lethal Injection Team.

(8) A member of the Lethal Injection Team must agree to not work or be assigned to any condemned housing unit. This includes any overtime.

New Subsections 3349.2(d) through 3349.2(d)(3)(B) are adopted to read:

(d) In addition to the general selection criteria described in subsection 3349.2(c), each candidate for a specific Lethal Injection Team Sub-Team shall meet the following criteria:

(1) All members of the Intravenous Sub-Team shall be medically trained personnel: physician, physician assistant, registered nurse, emergency medical technician, paramedic, or medic.

(A) Intravenous Sub-Team members shall provide current certification and licensure to verify the ability to perform the following:

1. Insertion and maintenance of intravenous catheters into peripheral or appropriate veins.
2. Placement of the electrocardiogram leads used during the lethal injection process.

(B) Intravenous Sub-Team members shall have experience setting up intravenous lines in the last twelve months in the performance of their job duties, unrelated to their duties as a Lethal Injection Team member.

(2) Infusion Sub-Team shall have at least one member who is a physician, physician assistant, pharmacist, registered nurse, emergency medical technician, paramedic, or medic. All Infusion Sub-Team members shall:

(A) Be able to follow the directions provided by the ~~Lethal Injection Chemical Supplier manufacturer~~ in preparing the Lethal Injection Chemical.

(B) Possess the organizational skills to appropriately label and color code the chemical used during the lethal injection process.

(3) Neither CDCR nor any of its employees shall take any action against an employee or contractor solely because of his or her participation in an execution, as it is a legal activity. If a member of the Lethal Injection Team is licensed by a board or department neither CDCR nor any of its employees shall refer the employee or contractor to any licensing body solely based on participation in an execution for the purpose of having action taken against their license. Furthermore, no doctor, nurse, pharmacist, pharmacy, medical, professional, or other business entity licensed by a board or department shall be referred to their licensing body by CDCR or any of its employees solely because of participating, assisting, aiding, facilitating or otherwise being involved with an execution or one of the associated, ancillary, auxiliary, supplemental, or supportive related activities, as an execution is a legal activity.

(4) Record Keeping Sub-Team members shall:

(A) Understand the need to keep accurate records during the lethal injection process.

(B) Demonstrate proficiency in report writing and record keeping.

New Subsections 3349.2(e) through 3349.2(e)(4) are adopted to read:

(e) Annual Review of the Lethal Injection Team members shall be conducted in order to ensure continued compliance with selection criteria. The annual review shall be conducted by the Team Administrator during the month of June. This shall include review of the following:

- (1) Official personnel, supervisory and training files.
- (2) Most recent performance evaluation.
- (3) Criminal Identification and Information Report from the California Department of Justice.
- (4) All related certifications and licensure to ensure they are current.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3603, 3604 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27.

New Section Title 3349.3 is adopted to read:

3349.3. Lethal Injection Team Training.

New Subsection 3349.3(a) is adopted to read:

(a) The Team Administrator shall ensure training on the lethal injection process is provided to each Lethal Injection Team member.

New Subsection 3349.3(b) is adopted to read:

(b) Each Lethal Injection Team member shall undergo training specific to their assigned duties during an execution.

New Subsections 3349.3(c) through 3349.3(c)(5) are adopted to read:

(c) Lethal Injection Training Session Requirements.

(1) Training shall be conducted at least once per month for a minimum of eight hours for all Lethal Injection Team members. Training dates will be scheduled by the Team Supervisor and approved by the Team Administrator and the San Quentin Warden. The Team Supervisor shall determine training curriculum for the Record Keeping Sub-Team and training for the Intravenous Sub-Team and Infusion Sub-Team other than that set forth in Section 3349.2(a)(2)(B) and (C). All Lethal Injection Team members must participate in all scheduled training, as specified, unless on approved leave. The Team Supervisor shall attend all Lethal Injection Team training, unless on approved leave.

(2) When an execution warrant has been served on an inmate, the Team Administrator shall ensure the Team Supervisor schedules training in the 30 calendar days immediately preceding the scheduled execution date.

(3) The Lethal Injection Team shall train for the three consecutive calendar days immediately preceding an execution.

(4) The Lethal Injection Team members must participate in at least six training sessions prior to being assigned duties during an execution which includes each of the three daily training sessions immediately preceding the scheduled execution.

(5) Any medical personnel who serves as the physician attending the execution, including one contracted pursuant to subsection 3349.2(a)(2)(D) must participate in at least one training session in the six months immediately preceding a scheduled execution and participate in each of the three daily training sessions immediately preceding the scheduled execution.

New Subsections 3349.3(d) through 3349.3(d)(2) are adopted to read:

(d) Training for all Lethal Injection Team members shall include the following:

(1) A simulation of an execution by lethal injection.

(2) Identification of potential problems and recommendations for avoidance or resolution.

New Subsections 3349.3(e) through 3349.3(e)(6) are adopted to read:

(e) Training specific to the Intravenous Sub-Team shall include the following:

- (1) Use of an electrocardiogram for vital signs.
- (2) Setting up intravenous lines and intravenous drip.
- (3) The different sizes of intravenous catheters and determination of the proper size of the catheter(s) to be used, dependent on the size and condition of the vein.
- (4) Performance of consciousness checks in accordance with Subsection 3349.7(c)(4)(A).
- (5) Monitoring intravenous lines to ensure patency.
- (6) Crimping, uncoupling, and detaching intravenous lines.

New Subsections 3349.3(f) through 3349.3(f)(5) are adopted to read:

(f) Training specific to the Infusion Sub-Team shall include the following:

- (1) Preparation of the Lethal Injection Chemical used in the lethal injection process.
- (2) Level and rate of infusion of the Lethal Injection Chemical into the intravenous lines.
- (3) ~~Numbering~~ **Numbering Labeling** and color coding of the syringes used in the lethal injection process.
- (4) Sequence of syringes used in the lethal injection process and the physical effects the Lethal Injection Chemical can have on the inmate as it is administered.
- (5) Handling and accountability of the Lethal Injection Chemical.

New Subsections 3349.3(g) through 3349.3(g)(3) are adopted to read:

(g) Training specific to the Record Keeping Sub-Team shall include the following:

- (1) Accurate record keeping.
- (2) Report writing.
- (3) Preparation of specific records used to document an execution.

New Subsections 3349.3(h) through 3349.3(h)(2) are adopted to read:

(h) Training Documentation and Records.

- (1) The Team Supervisor shall maintain a lethal injection training file. This training file shall contain a record of all lethal injection training sessions and shall be maintained in the Lethal Injection Facility. A copy of the records for training conducted the three calendar days immediately preceding an execution shall be included in the Master Execution File.

(2) During each training session, the designated Record Keeping Sub-Team member shall document the training on the following CDCR Forms, which are hereby incorporated by reference: CDCR Form 2177-A (Rev. 10/15-06/17), San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Pentobarbital Lethal Injection Infusion Sub-Team, CDCR Form 2177-B (06/17), San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Thiopental, CDCR Form 2179 (Rev. 10/15), San Quentin State Prison Lethal Injection Intravenous Sub-Team Execution Log-Lethal Injection Intravenous Sub-Team and CDCR Form 2181 (Rev. 10/15), San Quentin State Prison Lethal Injection Team Administrator/Team Supervisor Execution Log-Lethal Injection Team Administrator/Team Supervisor.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3603, 3604 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27.

New Section Title 3349.4 is adopted to read:

3349.4 Execution Site Operation.

New Subsection 3349.4(a) is adopted to read:

(a) Security. All persons entering the Lethal Injection Facility shall have prior oral or written approval by the San Quentin Warden, or designee in the Warden’s absence. This approval shall be documented by the San Quentin Warden, San Quentin Chief Deputy Warden, Team Administrator or Team Supervisor in the key control log. The San Quentin Warden shall maintain a record of all individuals approved to enter the Lethal Injection Facility.

New Subsection 3349.4(b) is adopted to read:

(b) The Infusion Control Room shall include the Lethal Injection Chemical preparation area and shall accommodate the Infusion Sub-Team and designated members of the Intravenous Sub-Team, the Team Administrator, the Team Supervisor, designated members of the Record Keeping Sub-Team, the San Quentin Litigation Coordinator, and one representative each from the Governor’s Office, the Inspector General’s Office, and the Attorney General’s Office.

New Subsections 3349.4(c) through 3349.4(c)(2) are adopted to read:

(c) The Lethal Injection Facility safe shall be permanently mounted within the Infusion Control Room.

(1) The combination to the ~~Infusion Control Room~~ safe shall be known only by the San Quentin Warden, the San Quentin Chief Deputy Warden, and the Team Administrator.

(2) The combination to the ~~Infusion Control Room~~ safe shall be changed after each execution to maintain quality control, accountability, and security of the Lethal Injection Chemical.

New Subsections 3349.4(d) through 3349.4(d)(4) are adopted to read:

(d) Key Procedure.

(1) The keys for the Lethal Injection Facility shall be located in the San Quentin key control area in a locked box secured under glass. All access must be approved by the San Quentin Warden or designee.

(2) The key allowing access to the locked box shall only be issued to the San Quentin Warden, the Chief Deputy Warden, the Team Administrator or the Team Supervisor.

(3) Each person authorized to draw the key to the locked box shall be required to sign the key control log noting the time at key check out, reason for entry into the Lethal Injection Facility, and time of key return.

(4) Each person authorized to draw the keys to the Lethal Injection Facility shall personally return the keys and secure them in the locked box under glass.

New Subsections 3349.4(e) through 3349.4(e)(4) are adopted to read:

(e) The Team Supervisor shall conduct and document monthly security and operational inspections of the Lethal Injection Facility, to include the following:

(1) Functionality of equipment

(2) Supply inventory

(3) Building maintenance

(4) The Team Supervisor shall document the inspection on the CDCR Form 2137 (02/17), Monthly Security and Operational Inspection Sheet, which is incorporated by reference.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3603, 3604, 3605 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27.

New Section Title 3349.5 is adopted to read:

3349.5 Responsibilities and Tasks Upon Receipt and Service of the Execution Warrant.

New Section 3349.5 Presentence is adopted to read:

Upon CDCR's receipt of the execution warrant, the following shall occur:

New Subsections 3349.5(a) through 3349.5(d) are adopted to read:

(a) The Litigation Coordinator where the inmate is housed shall identify any pending litigation regarding the inmate or the scheduled execution and advise the Warden of the institution where the inmate is housed and the San Quentin Warden.

(b) The San Quentin Litigation Coordinator shall create a Master Execution File and insert a copy of all documents transmitted between San Quentin State Prison and the California Department of Corrections and Rehabilitation headquarters, the institution where the inmate is housed if other than San Quentin, or any other agency or organization, pertaining to a scheduled execution.

(c) The San Quentin Warden or the Warden where the inmate is housed shall notify the Director - Division of Adult Institutions, and other appropriate officials as necessary, within 24 hours of receipt of the execution warrant. The Director - Division of Adult Institutions shall notify the CDCR Secretary. The CDCR Secretary shall notify the Governor's Legal Affairs Secretary. A copy of the execution warrant shall be delivered to the Governor's Legal Affairs Secretary within 24 hours of receipt of the execution warrant.

(d) The Director - Division of Adult Institutions shall, upon notification of the execution warrant, select and appoint three Alienists, as defined in Section 3349.1, to interview and evaluate the inmate to determine his/her sanity pursuant to Penal Code Section 3700.5. The Director shall maintain a list of Alienists with a minimum of six names.

New Subsections 3349.5(e) through 3349.5(e)(8) are adopted to read:

(e) The San Quentin Warden, in conjunction with the Warden of the institution where the inmate is housed, shall:

(1) Coordinate transfer of the condemned male inmate to San Quentin State Prison.

(2) In the presence of an Associate Warden and the Litigation Coordinator of the institution where the inmate is housed, serve the execution warrant on the inmate to be executed, interview the inmate, and document the interview on a CDCR Form 1801-B (Rev. 10/15), Service of Execution Warrant -Warden's Initial Interview.

(3) If there is good reason to believe that a condemned female inmate may be pregnant, notify the District Attorney, the attorney for the inmate, and the court pursuant to Penal Code Sections 3705 and 3706.

(4) Inform the inmate of the choices of execution method, either lethal injection or lethal gas, and document on the CDCR Form 1801 (Rev. 10/15), Notification of Execution Date and Choice of Execution Method.

(5) Instruct the inmate to indicate his/her election of execution method within ten calendar days of the inmate's receipt of the CDCR Form 1801-A (Rev. 10/15), Choice of Execution Method, with the explanation that if no election is made, lethal injection will be the method of execution.

(6) Provide the inmate a copy of CDCR Forms 1801-C (10/15), Request For Approval of Witnesses, 1801-D (10/15), Last Meal Request, 1801-E (10/15), Disposition of Personal Property, and 1801-F (10/15), Release of Remains and Burial Arrangements which are hereby incorporated by reference.

(7) Ensure the inmate has a copy of the current California Code of Regulations, Title 15, Division 3, for review of general rules and procedures that shall be utilized during the days leading up to the date of execution.

(8) Ensure the appointed Alienists have access to interview and evaluate the inmate pursuant to Penal Code Section 3700.5.

(9) Ensure any information received which may be relevant to the inmate's sanity is immediately made available to the Alienists Panel pursuant to Penal Code Section 3700.5.

New Subsections 3349.5(f) through 3349.5(f)(1)(E) are adopted to read:

(f) The San Quentin Warden shall:

(1) Select the Lethal Injection Chemical.

(A) Lethal Injection Chemical selection shall be done on a case-by-case basis, taking into account changing factors such as the availability of a supply of chemical. The San Quentin Warden shall make the selection in consultation with medical personnel and notify the CDCR Secretary of the selection.

(B) CDCR may contract with medical personnel to assist with chemical selection, so long as the contract does not displace a qualified state civil service employee who is available and willing to participate. Medical personnel shall be a medical doctor, clinical toxicologist, pharmacologist, anesthesiologist, or other appropriate expert.

(C) The San Quentin Warden shall determine which chemical shall be utilized to perform the execution and document the selection on the CDCR Form 1801-A (Rev. 10/15), Choice of Execution Method. CDCR considers the listed chemicals to be equally effective in carrying out the purpose of the regulations. The San Quentin Warden shall select one chemical from the following (or any name that they may be known or sold by including their pharmaceutical name, foreign name, generic name, trade name or brand name):

Barbiturates:

- Amobarbital
- Pentobarbital
- Secobarbital
- Thiopental

(D) The San Quentin Warden shall ensure that the Lethal Injection Chemical is obtained from a ~~Lethal Injection Chemical Supplier as defined in subsection 3349.1(i), licensed pharmaceutical facility or distributor.~~

(E) If ~~any either~~ chemical described in Subsection 3349.5(f)(1)(C) is declared unconstitutional for purposes of execution by a court with jurisdiction, the chemical shall not be considered for selection.

New Subsections 3349.5(f)(2) through 3349.5(f)(8) are adopted to read:

(2) Inform the Warden of the institution where the inmate is housed of the Lethal Injection Chemical selection.

(3) Inform the inmate that he/she shall be executed by lethal injection, the Lethal Injection Chemical and amount to be used, and document this information on the CDCR Form 1801-A (Rev. 10/15), Choice Of Execution Method.

(4) Meet with the Team Administrator, who shall notify the Team Supervisor and the Lethal Injection Team members of the execution warrant.

(5) Ensure the Team Administrator, the Team Supervisor and all Lethal Injection Team members involved in the lethal injection process understand their roles in the scheduled execution, **by reviewing the following:**

(A) Training session performance assessments.

(B) Most recent staff performance in job duties to include annual personnel evaluation and any corrective or adverse action.

(C) Any other information or concerns expressed by the Team Administrator, Team Supervisor or Lethal Injection Team Member.

(D) Any other information that causes the San Quentin Warden to believe persons identified in subsection (5) may be unprepared or unable to perform the duties during a scheduled execution.

(6) Refer the inmate to the Intravenous Sub-Team for a vein assessment to determine the size, location, and resilience of the veins. The vein assessment shall identify the primary, backup, and alternate backup locations. Vein assessment shall take into account individualized medical history and information

including age, physical condition of vein site, scarring, body size, body weight, dehydration, skin texture, rolling veins, hardening of veins, bruising, vein or bone trauma. The alternate backup location may be a vein or a percutaneous portal vein access, if necessary. Upon completion of the vein assessment, the Warden shall obtain a copy of the results report and ensure it is placed in the Master Execution File.

(7) Ensure all institution staff members with specific lethal injection responsibilities are notified of the execution warrant.

(8) Select witnesses pursuant to Penal Code Section 3605.

New Subsections 3349.5(g) through 3349.5(g)(1)(C) are adopted to read:

(g) Upon service of the execution warrant, the Warden of the institution where the inmate is housed shall ensure the following occur by the designated staff:

(1) The Associate Warden of the unit where the inmate is housed shall:

(A) Ensure the condemned unit staff create a Pre-Execution Logbook and at a minimum, conduct hourly checks and document the inmate's activities, requests, conduct and behavior in the inmate's Pre-Execution Logbook.

(B) Immediately report the type of conduct or behavior identified in Section 3317 in writing on CDCR Form 128-B (4/74), General Chrono, which is incorporated by reference, to the Warden of the institution where the inmate is housed, the San Quentin Warden, and the Alienists.

(C) Visit the inmate's housing unit daily and sign in on the inmate's Pre-Execution Logbook with each visit.

New Subsections 3349.5(g)(2) through 3349.5(g)(2)(F) are adopted to read:

(2) The Correctional Counselor II – Condemned Unit at the institution where the inmate is housed shall:

(A) Maintain daily contact with the inmate and document the inmate's conduct and behavior in the inmate's Pre-Execution Logbook. Immediately report any conduct or behavior of the type identified in Section 3317 in writing to the Associate Warden of the institution where the inmate is housed, the Warden of the institution where the inmate is housed, the San Quentin Warden, and the Alienists.

(B) Ensure effective communication, as defined in Section 3000, is established with the inmate.

(C) Update the inmate's Notification In Case Of Inmate Death, Serious Injury Or Serious Illness in the Strategic Offender Management System as defined in Section 3000.

(D) Submit a report to the San Quentin Warden via the Warden of the institution where the inmate is housed consisting of a review of the inmate's case factors and any observations of the inmate documented by the assigned Correctional Counselor I and/or custody staff to determine the inmate's past and present conduct and behavior for inclusion in the CDCR Form 2173 (10/15), 20-Day Pre-Execution Report, which is hereby incorporated by reference.

(E) Collect the completed CDCR Forms 1801-C (10/15), Request For Approval of Witnesses, 1801-D (10/15), Last Meal Request, 1801-E (10/15), Disposition of Personal Property and 1801-F (10/15),

Release of Remains and Burial Arrangements, within ten calendar days of providing the forms to the inmate and forward them to the Litigation Coordinator at the institution where the inmate is housed.

(F) Ensure all non-legal telephone calls made by the inmate on an institutional telephone are monitored. Legal calls shall not be monitored but shall be facilitated by staff. All calls shall be logged in the inmate's Pre-Execution Logbook.

New Subsections 3349.5(g)(3) through 3349.5(g)(5)(B) are adopted to read:

(3) The Litigation Coordinator at the institution where the inmate is housed shall:

(A) Ensure approval for visiting is on file for the inmate's attorney(s) and notify the Visiting Lieutenant.

(B) Notwithstanding Section 3178, schedule attorney visits expeditiously upon request of the inmate's attorney(s).

(4) The Warden's Administrative Assistant-Public Information Officer at the institution where the inmate is housed shall act as liaison between the inmate's family and the Warden of the institution where the inmate is housed.

(5) The Visiting Lieutenant at the institution where the inmate is housed shall:

(A) Ensure that the attorney(s) for the inmate is afforded expeditious access to the inmate. This may include facilitating attorney visits during weekends and holidays as necessary.

(B) Arrange for visiting pursuant to California Code of Regulations, Title 15, Division 3, Subchapter 2, Article 7, Visiting.

New Subsections 3349.5(h) through 3349.5(h)(5) are adopted to read:

(h) Sanity Review pursuant to Penal Code Section 3701.

(1) Attorneys may submit in writing any current information they believe may have a bearing on evaluating the sanity of an inmate with a scheduled execution date at any time prior to the scheduled execution. This information shall be submitted to the San Quentin Warden who shall forward it to the Alienists.

(2) The Warden where the inmate is housed shall have available for review all psychiatric information pertaining to the inmate known to psychiatric staff. This information shall be submitted to the San Quentin Warden who shall forward it to the Alienists.

(3) The information in Subsection (h)(1) and (h)(2), together with any information forwarded to the Warden of the institution where the inmate is housed or the San Quentin Warden regarding the inmate's conduct or behavior, shall be used to determine if there is a good reason to believe the inmate has become insane, pursuant to Penal Code Section 3701. The Warden of the institution where the inmate is housed shall notify the inmate's attorney in writing of the results of any sanity review. Should the San Quentin Warden, in consultation with the Alienists, find there is a good reason to believe the inmate has become insane, the San Quentin Warden shall notify the District Attorney pursuant to Penal Code Section 3701, via a CDCR Form 2174 (10/15), Notification By Warden To The District Attorney Concerning Sanity of Condemned Inmate, which is hereby incorporated by reference.

(4) The Warden where the inmate is housed and the San Quentin Warden shall notify the Director – Division of Adult Institutions and the Secretary of CDCR of any notification to the District Attorney concerning the sanity of the condemned inmate.

(5) The Secretary of CDCR shall notify the Governor’s Legal Affairs Secretary in writing of all referrals to the District Attorney’s office pursuant to Penal Code Section 3701.

NOTE: Authority cited: Sections 3604, subd. (a); 3605; 3700.5; 5058, Penal Code, ~~Capital punishment is an authorized sentence under the law and is constitutional~~² *Glossip v. Gross* (June 29, 2015, No. 14-7955) 576 U.S. [135 S.Ct. 2726, 2732] ~~The Legislature has authorized physician participation in executions.~~ *Thorburn et al. v. Depart. of Corrections et al.* (1998) 66 Cal.App. 4th 1284; ~~“An execution is not a medical procedure, and its purpose is not to keep the inmate alive but rather to end the inmate’s life...”~~ *Morales v. Tilton* (2006) 465 F.Supp.2d 972, 983. See also *Heckler v. Chaney* (1985) 470 U.S. 821; *O’Bryan v. McKaskle*, (5th Cir. 1984) 729 F.2d 991; *Abdur’Rahman v. Bredesen*, 181 S.W.3d 292 (Tenn. 2005), cert. denied, 126 S.Ct. 2288, 164 L.Ed.2d 813 (U.S. 2006); *State v. Deputy*, (Del. Super. Ct. 1994) 644 A.2d 411. *Morales v. Hickman*, Case Nos. C 06 219 JF and C 06 926 FJ RS, Document No. 78 (February 21, 2006 Order on Defendant’s Motion to Proceed with Execution Under Alternative Condition to Order Denying Preliminary Injunction). Reference: Sections 190, 1227, 3600, 3601, 3602, 3603, 3604, 3605, 3700, 3700.5, 3701, 3702, 3703, 3704, 3705, 3706 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27, *Towery v. Brewer* (2012) 672 F.3d 650.

New Section Title 3349.6 is adopted to read:

3349.6 Chronology of events after Execution Warrant has been served.

New Section 3349.6 Presentence is adopted to read:

Once the execution warrant has been served on the inmate the following shall occur leading up to the scheduled execution date.

New Subsections 3349.6(a) through 3349.6(a)(4) are adopted to read:

(a) No later than 20 calendar days prior to the scheduled execution:

(1) The San Quentin Warden and the Warden of the institution where the inmate is housed shall ensure the three Alienists each complete the CDCR Form 2173 (10/15), 20-Day Pre-Execution Report pursuant to Penal Code section 3700.5.

(2) Each Alienist shall complete the CDCR Form 2173, attach his or her independent psychiatric report regarding the inmate, and submit it to the San Quentin Warden and the Warden of the institution where the inmate is housed.

(3) The Alienists panel shall submit to the Governor, the San Quentin Warden, and the Warden of the institution where the inmate is housed a copy of the completed CDCR Form 2173 (10/15), 20-Day Pre-Execution Report, and shall include a summary of the examinations, interviews, and history stated in plain language.

(4) The San Quentin Warden and the Warden of the institution where the inmate is housed shall submit the completed CDCR Form 2173 (10/15), 20-Day Pre-Execution Report with a cover letter, and the summary of the inmate’s conduct and behavior, submitted by a Correctional Counselor II – Condemned Unit, to the Director – Division of Adult Institutions and the CDCR Secretary. If the San Quentin Warden ~~and or~~ the Warden at the institution where the inmate is housed ~~have~~ **has** good reason to believe the inmate has become insane after reviewing **any of** the **three** 20-Day Pre-Execution Reports, the San

Quentin Warden shall notify the District Attorney pursuant to Penal Code Section 3701. The notification shall be via a CDCR Form 2174 (10/15), Notification By Warden To The District Attorney Concerning Sanity of Condemned Inmate, which is hereby incorporated by reference.

New Subsections 3349.6(b) through 3349.6(b)(3) are adopted to read:

(b) ~~Approximately~~ **No sooner than** ten calendar days prior to the scheduled execution:

(1) Each Alienist shall conduct a second interview and evaluate the inmate in preparation for the CDCR Form 2175 (10/15), 7-Day Pre-Execution Report, which is hereby incorporated by reference.

(2) Each Alienist shall submit a CDCR Form 2175 (10/15), 7-Day Pre-Execution Report to the San Quentin Warden and the Warden of the institution where the inmate is housed. The report shall include a comparison of the inmate's current mental health status to the previous findings noted in the 20-Day Pre-Execution Report to determine if there is any change in the inmate's mental condition. Observations must be current and pertain to the inmate's mental state.

(3) The San Quentin Warden and the Warden of the institution where the inmate is housed shall submit the completed CDCR Form 2175 (10/15), 7-Day Pre-Execution Report with a cover letter, and the summary of the inmate's conduct and behavior, submitted by a Correctional Counselor II – Condemned Unit, to the Director – Division of Adult Institutions and the CDCR Secretary. The CDCR Form 2175 (10/15), 7-Day Pre-Execution Report shall be routed in sufficient time for forwarding to the Secretary of the CDCR whose office shall then forward the report in accordance with (c) of this section. If the San Quentin Warden **and or** the Warden at the institution where the inmate is housed **have has** good reason to believe the inmate has become insane after reviewing **any of the three** 7-Day Pre-Execution Reports, the San Quentin Warden shall notify the District Attorney pursuant to Penal Code Section 3701. The notification shall be via a CDCR Form 2174 (10/15), Notification By Warden To The District Attorney Concerning Sanity of Condemned Inmate, which is hereby incorporated by reference.

New Subsections 3349.6(c) is adopted to read:

(c) Seven calendar days prior to the scheduled execution the CDCR Form 2175 (10/15), 7-Day Pre-Execution Report shall be delivered to the Governor's Legal Affairs Secretary.

New Subsections 3349.6(d) through 3349.6(d)(7)(B) are adopted to read:

(d) ~~Approximately~~ **ff**ive calendar days prior to the scheduled execution, the following shall occur:

(1) The San Quentin Warden shall ensure the condemned male inmate has been moved to the Designated Security Housing area. ~~Pursuant to Penal Code Section 3602, a eCondemned~~ female inmates shall **not** be transferred to San Quentin ~~until three days prior to a scheduled execution~~ **in accordance with subsection (f).**

(2) The Warden of the institution where the inmate is housed shall ensure the condemned inmate will be under observation 24 hours a day by an officer assigned for that purpose.

(3) The Associate Warden where the inmate is housed shall ensure monitoring of the inmate's behavior is continued by unit staff with documentation completed every hour in the inmate's Pre-Execution Logbook.

(A) Should the inmate display any conduct or behavior of the type identified in Section 3317, the Warden of the institution where the inmate is housed and the San Quentin Warden shall be notified by institutional staff.

(B) The Warden of the institution where the inmate is housed and the San Quentin Warden shall monitor any reported changes in the inmate's behavior utilizing the provisions of Penal Code section 3701. If there is good reason to believe that the inmate has become insane it shall be reported **by the San Quentin Warden** to the Secretary of the CDCR in writing via the Director – Division of Adult Institutions in addition to reporting it to the District Attorney.

(4) The Correctional Counselor II – Condemned Unit shall begin daily briefings for the Warden of the institution where the inmate is housed regarding the inmate's needs, requests, and behavior.

(5) The inmate shall have 24-hour access to a telephone for attorney contact. Legal calls will not be monitored but shall be facilitated by staff. All calls shall be logged in the inmate's Pre-Execution Logbook.

(6) Religious accommodations.

(A) State employed Chaplains and Spiritual Advisors selected by the inmate shall be allowed to perform their spiritual functions at the inmate's cell front **between the hours of 0600 to 2200 on either second or third watch** and by telephone at any time.

(B) Pre-approved non-state employed Chaplains and Spiritual Advisors may visit the inmate utilizing the visitor process and shall be allowed to perform their spiritual functions at the inmate's cell front **between the hours of 0600 to 2200 on either second or third watch** or by telephone at any time.

(7) The Team Administrator along with the Food Manager shall interview the inmate to confirm what request, if any, the inmate may have for a last meal as noted on the CDCR Form 1801-D (10/15), Last Meal Request.

(A) Accommodations for the last meal shall be reasonable and not exceed a fifty dollar (\$50.00) limit.

(B) The Food Manager shall determine if food services can fulfill the request or make arrangements to obtain the requested menu items.

New Subsections 3349.6(e) through 3349.6(e)(3) are adopted to read:

(e) ~~Approximately~~ **Three** calendar days prior to the scheduled execution:

~~(21)~~ **(21)** The Team Administrator shall ensure that Lethal Injection Team members assigned to specific functions begin daily training on their assignments. All Lethal Injection Team members designated as backups shall be involved in training for their specified backup functions.

~~(32)~~ **(32)** The Team Supervisor shall schedule and conduct **daily** required training for the Lethal Injection Team. The Intravenous Sub-Team leader or the Infusion Sub-Team leader shall conduct any training that requires medical knowledge.

~~(43)~~ **(43)** The Intravenous Sub-Team leader, Infusion Sub-Team leader, and the Team Supervisor shall **begin daily assessments of** the Lethal Injection Team members to ensure readiness for their assigned duties. If at any time the Intravenous Sub-Team leader, Infusion Sub-Team leader, or Team Supervisor believes a Lethal Injection Team member may be unable to complete the assigned duties, the Team Administrator shall be notified, and the Lethal Injection Team member shall be excused from participation in the scheduled execution.

New subsection 3349.6(f) is adopted to read:

(1f) Pursuant to Penal Code Section 3602, condemned female inmates shall be transported to San Quentin no sooner than 72 hours prior to the scheduled execution. A condemned female inmate shall be transported no later than 12 hours prior to the scheduled execution. The female inmate shall be secured in the Lethal Injection Facility Holding Area.

New Subsections 3349.6(g) through 3349.6(g)(2)(C) are adopted to read:

(fg) ~~Approximately~~ No sooner than 24 hours but no later than six hours prior to the scheduled execution:

(1) The San Quentin Warden shall confirm that all Lethal Injection Team members are fully prepared and ready to perform their assigned duties **by reviewing the following:**

(A) Training session performance assessments

(B) Most recent staff performance in job duties to include annual personnel evaluation and any corrective or adverse action taken against a specific team member

(C) Any other information or concerns expressed by the Team Administrator, Team Supervisor or Lethal Injection Team Member.

(D) Any other information that causes the San Quentin Warden to believe any team member may be unprepared or unable to perform the duties during a scheduled execution.

(2) The Team Administrator shall:

(A) Accompany the Team Supervisor and a Lethal Injection Team member to obtain the Lethal Injection Chemical and complete the CDCR Form 2176 (10/15), Lethal Injection Chain of Custody, San Quentin State Prison, which is hereby incorporated by reference, to acknowledge receipt of the Lethal Injection Chemical.

(B) Ensure the Lethal Injection Chemical is properly controlled and secured in the Lethal Injection Facility.

(C) Ensure the CDCR Form 2176 (10/15), Lethal Injection Chain of Custody, San Quentin State Prison, is completed upon any movement of the Lethal Injection Chemical. The original CDCR Form 2176 shall remain with the Lethal Injection Chemical. A copy of the form shall be distributed to the San Quentin Warden, the San Quentin Chief Deputy Warden, and forwarded to the San Quentin Litigation Coordinator for placement in the Master Execution File.

New Subsections 3349.6(h) through 3349.6(h)(2) are adopted to read:

(gh) ~~Approximately~~ No sooner than six hours but no later than five hours prior to the scheduled execution:

(1) The Team Supervisor shall:

(A) Brief the inmate on execution procedures.

(B) Supervise the movement of the male inmate from the Designated Security Housing area to the Lethal Injection Facility Holding Area cell.

(C) Secure the inmate in the Lethal Injection Facility Holding Area cell.

(D) Ensure assigned custody staff provide direct and constant observation of the inmate in the Lethal Injection Facility Holding Area and document all of the inmate's activities, requests, conduct, and behavior in the inmate's Pre-Execution Logbook with entries made every 15 minutes.

(E) Ensure the last meal is delivered to the Lethal Injection Facility, inspected for contraband and served to the inmate in the Lethal Injection Facility Holding Area cell.

(F) Inform the inmate they may request additional food items, coffee, juice and soft drinks, programs on the radio or television, phone calls and mailing of letters.

(2) **Once the condemned inmate is secured in the Lethal Injection Facility holding area cell, ~~visiting~~**, with the exception of an Attorney and a state employed or pre-approved non-state employed Chaplain or Spiritual Advisor shall cease. Due to direct and constant observation of the inmate, attorney-client confidentiality cannot be guaranteed in the Lethal Injection Facility Holding Area during cell front visits. Accordingly, if attorney-client confidentiality is needed, attorneys shall have access to their client by phone as requested either by the attorney or the inmate. No visitation shall occur ~~on first watch~~ **between the hours of 2200 and 0600.**

New Subsections 3349.6(i) through 3349.6(i)(2)(B) are adopted to read:

~~(h)~~ **Approximately three hours prior to the scheduled execution, the following shall be initiated:**

(1) The Team Supervisor shall:

(A) Ensure that all visiting shall cease. Attorneys, Chaplains, and Spiritual Advisors may have access to the inmate by phone as requested by either the Attorney, Chaplain, Spiritual Advisor, or the inmate.

(B) Ensure the Record Keeping Sub-Team member assigned to the Team Administrator/Team Supervisor initiates documentation on the CDCR Form 2181 (10/15), San Quentin State Prison ~~Lethal Injection Team Administrator/Team Supervisor~~ Execution Log ~~Lethal Injection Team Administrator/Team Supervisor~~.

(C) Remove the Lethal Injection Chemical from the Lethal Injection Facility safe and immediately transfer custody of the Lethal Injection Chemical to two members of the Infusion Sub-Team.

(D) Ensure accountability of the Lethal Injection Chemical. A minimum of two members of the Infusion Sub-Team shall verify receipt of the designated Lethal Injection Chemical at the time of transfer, and sign the CDCR Form 2176 (10/15), Lethal Injection Chain of Custody, San Quentin State Prison.

(E) ~~Ensure~~ **A** Record Keeping Sub-Team member ~~shall~~ initiates documentation on the CDCR Form 2177-A (10/15 ~~06/17~~), San Quentin State Prison ~~Lethal Injection Infusion Sub-Team~~ Execution Log ~~:- Pentobarbital Lethal Injection Infusion Sub-Team~~ or CDCR Form 2177-B (06/17), San Quentin State Prison ~~Lethal Injection Infusion Sub-Team~~ Execution Log ~~:- Thiopental~~, upon receipt of the Lethal Injection Chemical by the Infusion Sub-Team members and continue observation and documentation throughout the execution.

(2) The San Quentin Warden and Team Administrator shall meet with the inmate in the Lethal Injection Facility Holding Area and shall advise the inmate of the following:

(A) A written last statement may be prepared by the inmate which will be made available after the execution.

~~(B) A sedative is available upon request. A sedative may be requested, and if approved by a physician, the sedative shall be administered under their direction. If requested by the inmate, the sedative shall be administered under the direction and approval of a physician.~~

New Subsections 3349.6(i)(3) through 3349.6(i)(4)(F) are adopted to read:

~~(3) The Lethal Injection Chemical shall be prepared according to the instructions provided by the Lethal Injection Chemical Supplier.~~

~~(34) Preparation for administration of the Lethal Injection Chemical shall be as follows:~~

~~(A) The Lethal Injection Chemical that has been designated pursuant to Subsection 3349.5(f)(1)(C) shall be prepared for administration by means of five syringes. Each syringe shall contain 1.5 grams of the If Pentobarbital is the designated Lethal Injection Chemical, it shall be administered by means of three syringes for a total of 7.5 grams. A sixth fourth syringe shall be prepared with a saline flush.~~

~~(B) If Thiopental is the designated Lethal Injection Chemical, it shall be administered by means of five syringes for a total of 7.5 grams. A sixth syringe shall be prepared with a saline flush.~~

~~(B.C) The Infusion Sub-Team shall prepare the Lethal Injection Chemical for administration as follows:~~

~~1. Three identical trays shall be prepared. Each tray shall contain a total of 7.5 grams of the Lethal Injection Chemical.~~

~~2. Tray A shall be color-coded red and shall be the primary tray used for the lethal injection process.~~

~~3. Tray B shall be colored-coded blue and shall be the backup tray.~~

~~4. Tray C shall be color-coded yellow and shall be the alternate backup tray.~~

~~(C.D) If Pentobarbital has been designated, Trays A, and B, and C shall each have six three syringes containing the Lethal Injection Chemical, each color-coded syringes each to match the tray; and a fourth syringe, color-coded white, containing the saline flush. The syringes shall and be labeled by content and sequence of administration as follows:~~

~~.....# 1 60cc syringe containing the specified amount of designated Lethal Injection Chemical.~~

~~.....# 2 60cc syringe containing the specified amount of designated Lethal Injection Chemical.~~

~~.....# 3 60cc syringe containing the specified amount of designated Lethal Injection Chemical.~~

~~.....# 4 60cc syringe containing the specified amount of designated Lethal Injection Chemical.~~

~~.....# 5 60cc syringe containing the specified amount of designated Lethal Injection Chemical.~~

~~.....# 6 60cc syringe containing saline flush.~~

~~1. Three syringes, each containing 2.5 grams of Pentobarbital, shall be labeled #A-1, #A-2, and #A-3 for Tray A, #B-1, #B-2, and #B-3 for Tray B, and #C-1, #C-2, and #C-3 for Tray C.~~

~~2. Syringe #4 shall contain a saline flush and be labeled #A-4 for Tray A, #B-4, for Tray B, and #C-4 for Tray C.~~

~~(E) If Thiopental has been designated, Trays A, B, and C shall each have five syringes containing the Lethal Injection Chemical, each color-coded to match the tray; and a sixth syringe, color-coded white, containing the saline flush. The syringes shall be labeled by sequence of administration as follows:~~

1. ~~Five syringes, each containing 1.5 grams of Thiopental, shall be labeled #A-1, #A-2, #A-3, #A-4, and #A-5 for Tray A, #B-1, #B-2, #B-3, #B-4, and #B-5 for Tray B, and #C-1, #C-2, #C-3, #C-4, and #C-5 for Tray C.~~
2. ~~Syringe #6 shall contain a saline flush and be labeled #A-6 for Tray A, #B-6, for Tray B, and #C-6 for Tray C.~~

~~(D) The Lethal Injection Chemical shall be mixed according to the manufacturer's instructions.~~

~~(E) A medically trained Infusion Sub-Team member shall prepare the syringes for Tray A, Tray B and Tray C. A separate medically trained Infusion Sub-Team member or Intravenous Sub-Team member shall verify proper preparation of the syringes for Tray A, Tray B and Tray C.~~

New Subsections 3349.6(j) through 3349.6(j)(1)(B) are adopted to read:

~~(j) Approximately ~~4~~Two hours prior to the scheduled execution:~~

(1) The San Quentin Warden shall:

(A) Ensure the curtain is open on the viewing windows prior to the witnesses' arrival. The curtain shall remain open throughout the execution process until the inmate is pronounced dead.

(B) Ensure all witnesses are escorted to the designated witness rooms in the Lethal Injection Facility.

New Subsection 3349.6(k) is adopted to read:

~~(j) Approximately one hour prior to the scheduled execution:~~

(1k) Within one hour prior to the scheduled execution, ~~T~~ the Team Supervisor shall ensure that open dedicated phone lines with the Governor's Office, the Office of the Attorney General, California State Supreme Court and the San Quentin Warden's office complex are established in the Infusion Control Room ~~and staffed at least 15 minutes prior to the scheduled execution.~~

New subsections 3349.6(l) through 3349.6(l)(2)(D) are adopted to read:

~~(2) Approximately 45 minutes before a scheduled execution, the San Quentin Warden shall order the inmate to be prepared for the execution.~~

~~(3) Upon direction of the San Quentin Warden to prepare the inmate, the Team Supervisor shall:~~

(A) Order the inmate placed in restraints and removed from the Lethal Injection Facility Holding Area cell.

(B) Ensure a Record Keeping Sub-Team member initiates documentation on the CDCR Form 2179 (10/15), San Quentin State Prison ~~Lethal Injection Intravenous Sub-Team~~ Execution Log-~~Lethal Injection Intravenous Sub-Team~~.

(C) Observe the Intravenous Sub-Team place the electrocardiogram leads on the inmate.

~~(4) Resistive inmates.~~

(A) In the event that an inmate refuses to comply with a direct order to be placed in restraints or to exit any area, the Team Supervisor shall advise the Team Administrator and the San Quentin Warden.

(B) The Team Supervisor shall speak to the inmate in an attempt to gain the inmate's compliance.

(C) If the inmate continues to refuse to comply with a direct order, force may be used in accordance with Section 3268, Use of Force.

(D) Any use of force shall be documented in accordance with Section 3268.1, Reporting and Investigating the Use of Force for Institution/Facility Staff, and a copy placed in the Master Execution File.

New Subsections 3349.6(m) through 3349.6(m)(5) are adopted to read:

~~(5m)~~ ~~Approximately~~ 15 minutes before a scheduled execution, the San Quentin Warden shall:

~~(A1)~~ Order the inmate escorted to the Lethal Injection Room.

~~(B2)~~ Order the inmate to be secured to the gurney with restraints.

~~(C3)~~ Order the inmate's hands to be secured to the arm rests on the gurney with medical tape.

~~(64)~~ ~~Ensure~~ ~~the~~ Team Administrator and Team Supervisor ~~shall~~ take ~~a~~ positions in the Infusion Control Room. The Team Supervisor shall directly supervise infusion of the Lethal Injection Chemical and saline during the execution.

~~(75)~~ ~~Ensure~~ ~~the~~ San Quentin Litigation Coordinator ~~shall~~ takes a position at the Lethal Injection Facility telephones at least 15 minutes prior to a scheduled execution to ensure constant communication with the Governor's Office, the Office of the Attorney General, California Supreme Court and the San Quentin Warden's office complex. The San Quentin Litigation Coordinator shall communicate all calls to the San Quentin Warden, the Team Administrator and the Team Supervisor.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3601, 3602, 3603, 3604, 3605, 3700, 3700.5, 3701, 3702, 3703, 3704, and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27; *Baze v. Rees* (2008) 553 U.S.35, *Towery v. Brewer* (2012) 672 F.3d 650.

New Section Title 3349.7 is adopted to read:

3349.7 Administration of the Lethal Injection Chemical.

New Subsections 3349.7(a) through 3349.7(a)(8) are adopted to read:

(a) After the inmate is secured in the Lethal Injection Room, the Intravenous Sub-Team members shall:

(1) Take their designated positions in the Lethal Injection Room.

(2) Inspect the restraints to ensure that they do not restrict the inmate's circulation or interfere with the insertion of the catheters.

(3) Attach the intravenous lines to the catheters and insert ~~two~~ ~~three~~ catheters into pre-designated veins.

(4) As each catheter is inserted, inform the Intravenous Sub-Team member in the Infusion Control Room to initiate the intravenous saline drip into the intravenous lines attached to the catheters.

(5) Designate primary, ~~and backup, and alternate backup~~ intravenous lines.

(6) Inform the San Quentin Warden when the intravenous lines have been successfully established.

(7) One Intravenous Sub-Team member shall exit the Lethal Injection Room and report to the Infusion Control Room to continuously monitor the saline drips.

(8) One Intravenous Sub-Team member shall remain in the Lethal Injection Room to continuously monitor the intravenous lines. This Intravenous Sub-Team member shall stand next to the inmate and assess the consciousness of the inmate throughout the execution in accordance with subsection (c)(4)(A).

New Subsections 3349.7(b) through 3349.7(b)(5) are adopted to read:

(b) After the inmate's intravenous lines are successfully established, the San Quentin Warden shall:

(1) Take a position in the Lethal Injection Room in close proximity to the inmate.

(2) Confirm there is no matter pending before any court that precludes the execution from proceeding via the California Supreme Court, the Governor's Office, and the Office of the Attorney General.

(3) Ensure a statement detailing the court order mandating the execution is read aloud over the public address system.

(4) Provide an opportunity for the inmate to make a brief final statement on the public address system.

(5) Direct the Infusion Sub-Team to administer the Lethal Injection Chemical.

New Subsections 3349.7(c) through 3349.7(c)(14) are adopted to read:

(c) Infusion.

(1) The infusion of the Lethal Injection Chemical shall begin with Tray A using the intravenous catheter designated as primary.

(2) The saline drip for the intravenous catheter that was designated as the primary infusion site shall be stopped prior to the infusion of the first syringe. The saline drip in the backup ~~and alternate backup~~ intravenous lines shall be continually maintained. ~~Should the backup or alternate backup intravenous line be designated for infusion, the saline drip for that catheter shall be stopped prior to the infusion of the first syringe.~~

(3) A Record Keeping Sub-Team member in the Infusion Control Room shall initiate a ten minute countdown at the start of the infusion of syringe #1.

(4) ~~If Pentobarbital has been designated, the Lethal Injection Chemical shall be administered, beginning with Tray A and using the primary intravenous catheter, the Lethal Injection Chemical shall be administered~~ as follows:

(A) #1-60cc syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered, followed by a consciousness assessment of the inmate; the Intravenous Sub-Team Member shall brush the back of his/her hand over the inmate's eyelashes, and speak to and gently shake the inmate. Observations shall be documented. If the inmate is unresponsive, it will demonstrate that the inmate is unconscious. The process shall continue as follows:

(B) #2-60cc syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.

(C) #3-60cc syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.

~~(D) #4 60cc syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(E) #5 60cc syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(DE) #46-60cc syringe containing the saline flush.~~

~~(5) If Thiopental has been designated, the Lethal Injection Chemical shall be administered, beginning with Tray A and using the primary intravenous catheter, as follows:~~

~~(A) #1 syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered, followed by a consciousness assessment of the inmate; the Intravenous Sub-Team Member shall brush the back of his/her hand over the inmate's eyelashes, and speak to and gently shake the inmate. Observations shall be documented. If the inmate is unresponsive, it will demonstrate that the inmate is unconscious. The process shall continue as follows:~~

~~(B) #2 syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(C) #3 syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(D) #4 syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(E) #5 syringe containing the specified amount of the designated Lethal Injection Chemical shall be administered.~~

~~(F) #6 syringe containing the saline flush.~~

~~(56) If, following the administration of syringe #1 the assessment indicates the inmate is not unconscious, the Intravenous Sub-Team member shall check the catheter for patency. After checking for patency, syringe #2 shall be administered followed by a second consciousness assessment of the inmate in the same manner as described in subsection (c)(4)(A). If the assessment indicates the inmate is not unconscious, the San Quentin Warden shall direct that the injection through the primary intravenous catheter be discontinued and the entire sequence re-initiated with the Lethal Injection Chemical on Tray B using the designated backup intravenous catheter.~~

(67) If, at any time during the infusion of the Lethal Injection Chemical the ~~primary~~ intravenous catheter fails, the San Quentin Warden shall:

(A) Direct the lethal injection process using the ~~primary~~ intravenous catheter and the chemical on ~~the~~ Tray ~~A~~ currently in use be discontinued.

(B) Direct the Lethal Injection Chemical administration process set forth in subsections ~~(42) and - (56)~~ begin again, but using the ~~backup intravenous catheter and the~~ Lethal Injection Chemical on the next sequential Tray B or series of syringes and the associated catheter.

(78) The inmate's heart activity shall be monitored by an electrocardiogram.

(89) The attending physician shall monitor the electrocardiogram. Death shall be determined and declared by a physician. Once death is declared, infusion of any remaining Lethal Injection Chemical shall cease.

(910) In the event all ~~six~~ syringes from Tray A have been administered, ~~the ten minutes countdown~~ has elapsed and death has not been declared, ~~or an intravenous site cannot be maintained at the primary site~~, the Record Keeping Sub-Team member shall advise the Team Supervisor, who shall then advise the Team Administrator and the San Quentin Warden. The San Quentin Warden shall direct the Lethal Injection Chemical administration process set forth in subsections ~~(42) - (89)~~ be repeated, but using the backup intravenous catheter and the ~~six~~ syringes from Tray B.

(1011) In the event all ~~six~~ syringes from Tray B have been administered, ~~the ten minutes countdown~~ has elapsed and death has not been declared, or an intravenous site cannot be ~~established or~~ maintained at ~~either~~ the ~~primary or~~ backup site, the Record Keeping Sub-Team member shall advise the Team Supervisor, who shall then advise the Team Administrator and the San Quentin Warden. The San Quentin Warden shall direct the Lethal Injection Chemical administration process set forth in subsections ~~(42) and - (89)~~ be repeated, but using the alternate backup site and Tray C.

~~(d11) If the alternate backup site, as determined by the Intravenous Sub-Team vein assessment in accordance with Subsection 3349.5(f)(6) is to proceed, the following shall occur:~~

~~(1A) An Intravenous Sub-Team member shall insert a catheter into the alternate backup pre-designated vein.~~

~~(2B) After the catheter is inserted, inform the Intravenous Sub-Team member in the Infusion Control Room to initiate the intravenous drip.~~

~~(3C) Inform the San Quentin Warden when the intravenous line has been successfully established.~~

~~(4D) Once access is established, an Infusion Sub-Team member shall administer the six syringes from Tray C utilizing the intravenous line.~~

~~(12) In the event all six syringes from Tray C have been administered, the ten minutes countdown has elapsed and death has not been declared, the San Quentin Warden shall direct the Infusion Sub-Team to prepare a set of five additional syringes of Lethal Injection Chemical, each containing 1.5 grams of Lethal Injection Chemical. The Lethal Injection Chemical shall be mixed according to the manufacturer's instructions. A medically trained Infusion Sub-Team member shall prepare the syringes. A separate medically trained Infusion Sub-Team member or Intravenous Sub-Team member shall verify proper preparation of each syringe. The Warden shall direct the Record~~

~~keeping Sub team member to initiate the ten minute countdown and the Infusion Sub Team to administer a syringe containing 1.5 grams of the Lethal Injection Chemical in the alternate backup intravenous line, and wait for ten minutes. If the inmate's death has not been declared by the end of that ten minute period, the San Quentin Warden shall direct the Infusion Sub Team to administer another syringe containing 1.5 grams of Lethal Injection Chemical in the alternate backup intravenous line and wait ten minutes. The same process shall be followed until the five syringes have been administered. If at any time during this process the inmate is declared dead, the administration of Lethal Injection Chemical shall stop.~~

~~(13) In the event all five syringes have been administered, the ten minutes countdown has elapsed and death has not been declared, the San Quentin Warden shall direct the Infusion Sub Team to prepare a second set of five additional syringes of Lethal Injection Chemical each containing 1.5 grams of Lethal Injection Chemical. The Lethal Injection Chemical shall be mixed according to the manufacturer's instructions. A medically trained Infusion Sub Team member shall prepare the syringes. A separate medically trained Infusion Sub Team member or Intravenous Sub Team member shall verify proper preparation of each syringe. The Warden shall direct the Record keeping Sub team member to initiate the ten minute countdown and the Infusion Sub Team to administer a syringe containing 1.5 grams of the Lethal Injection Chemical in the alternate backup intravenous line, and wait for ten minutes. If the inmate's death has not been declared by the end of that ten minute period, the San Quentin Warden shall direct the Infusion Sub Team to administer another syringe containing 1.5 grams of Lethal Injection Chemical in the alternate backup intravenous line and wait ten minutes. The same process shall be followed until the five syringes have been administered. If at any time during this process the inmate is declared dead, the administration of Lethal Injection Chemical shall stop.~~

~~(1412) In the event that all ten syringes of Lethal Injection Chemical from Tray C referred to in subsections (512) and (13) have been administered, ten minutes has elapsed, and death has not been declared, or an intravenous site cannot be maintained at the alternate backup site, the San Quentin Warden shall stop the execution and summon medical assistance for the inmate as set forth in subsection (ed).~~

New Subsection 3349.7(d) is adopted to read:

(ed) Should the execution be stayed or stopped for any reason after administration of the Lethal Injection Chemical has commenced, the Team Administrator shall immediately request San Quentin medical personnel, or contracted medical personnel if there is no state civil service employee who is available and willing to perform the prescribed duties, respond to the Lethal Injection Facility to provide any medical care that is deemed necessary. The curtains on the viewing windows for witnesses shall be closed. The San Quentin Warden shall immediately go to the Infusion Control Room and ensure an announcement is made via the public address system notifying the witnesses the execution has been stayed or stopped. Immediately after the announcement, the public address system shall be turned off. The San Quentin Warden shall direct staff to escort the witnesses from the Lethal Injection Facility to the media center or off grounds.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3603, 3604 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27; *Baze v. Rees* (2008) 553 U.S.35, *Towery v. Brewer* (2012) 672 F.3d 650.

New Section Title 3349.8 is adopted to read:

3349.8 Post Execution Procedure.

New Subsections 3349.8(a) through 3349.8(a)(3) are adopted to read:

(a) Immediately following the declaration of death of the inmate, the San Quentin Warden shall:

(1) Ensure a prepared statement is read aloud via the public address system notifying the witnesses the execution is complete.

(2) Ensure the curtains on the viewing windows for witnesses are closed.

(3) Direct staff to escort the witnesses from the Lethal Injection Facility to the media center or off grounds.

New Subsection 3349.8(b) is adopted to read:

(b) The Intravenous Sub-Team shall crimp closed and disconnect all intravenous lines. The catheter or needle shall not be removed from the inmate to allow for review by the Marin County Coroner.

New Subsection 3349.8(c) is adopted to read:

(c) The Team Supervisor shall ensure the inmate's body is placed with care and dignity into a post-mortem bag pending removal as pre-arranged with the contract mortuary.

New Subsections 3349.8(d) through 3349.8(d)(2) are adopted to read:

(d) Approximately one hour after the execution, the San Quentin Warden shall ensure:

(1) A statement to the media is issued advising the sentence has been carried out and announcing the time of death.

(2) The inmate's written statement is made available if applicable.

New Subsection 3349.8(e) is adopted to read:

(e) It is the responsibility of the Lethal Injection Team and assigned custody staff to clean each area of the Lethal Injection Facility after the inmate's body has been removed.

New Subsection 3349.8(f) is adopted to read:

(f) Any unused Lethal Injection Chemical and the reason why it was unused shall be documented on the CDCR Form 2176 (10/15), Lethal Injection Chain of Custody, San Quentin State Prison. The Infusion Sub-Team shall transfer the unused Lethal Injection Chemical to the Team Supervisor who shall place it in the Lethal Injection Facility safe to await disposal. The Lethal Injection Chemical transfer shall be documented on the CDCR Form 2176 (10/15), Lethal Injection Chain of Custody, San Quentin State Prison, and the final signature block signed by the Team Supervisor. The signed form shall remain with the Lethal Injection Chemical.

New Subsection 3349.8(g) is adopted to read:

(g) The Intravenous Sub-Team shall complete a post-execution inventory of all supplies and equipment that were used during the execution. The Intravenous Sub-Team shall give the inventory to the Team Supervisor, who shall arrange for replacement and replenishment of supplies.

New Subsections 3349.8(h) through 3349.8(h)(6) are adopted to read:

(h) Lethal Injection Reporting requirements:

(1) Immediately following the execution, the Team Supervisor shall complete a CDCR Form 2182 (10/15), San Quentin State Prison Execution Report – Team Supervisor, which is hereby incorporated by reference.

(2) Immediately following the execution, each Lethal Injection Team member shall complete a CDCR Form 2183 (10/15), San Quentin State Prison Execution Report – Team member, which is hereby incorporated by reference, documenting their actions and observations during the execution. The Lethal Injection Team members shall use identifiers assigned to their specific position (duties), rather than their names and/or classifications, when they submit their reports.

(3) Any use of force shall be documented and reviewed in accordance with Section 3268.1, Reporting and Investigating the Use of Force for Institution/Facility Staff.

(4) The Team Administrator shall review the completed Execution Report. The Execution Report shall be routed through the San Quentin Chief Deputy Warden for the San Quentin Warden's review and signature.

(5) A copy of the completed Execution Report shall be delivered to the Director – Division of Adult Institutions and the CDCR Secretary for review and follow up as needed.

(6) The original Execution Report shall be retained at San Quentin as part of the Master Execution File.

New Subsection 3349.8(i) is adopted to read:

(i) Assigned custody staff shall conduct a security inspection of the Lethal Injection Facility to ensure all doors are secured and no items were left behind.

New Subsection 3349.8(j) is adopted to read:

(j) The Team Supervisor shall secure the Lethal Injection Facility, return the keys and report directly to the Team Administrator and the San Quentin Warden that the Lethal Injection Facility has been secured.

New Subsections 3349.8(k) through 3349.8(k)(3) are adopted to read:

(k) Debriefing.

(1) The Team Administrator along with the Team Supervisor shall hold a debriefing with all Lethal Injection Team members prior to leaving the Lethal Injection Facility. All documents and records concerning the execution shall be collected by the Team Administrator for review and inclusion in the Execution Report.

(2) The Team Administrator along with the Team Supervisor shall offer the Lethal Injection Team members post trauma counseling.

(3) As soon as possible but no later than 24 hours after the execution, the San Quentin Warden shall arrange for a confidential individual debriefing by appropriate staff with the Team Administrator, the Team Supervisor, and each Lethal Injection Team member. Each individual may be accompanied by a person of his or her choosing to the individual debriefing. The San Quentin Warden shall offer the Team Administrator and Team Supervisor post trauma counseling

New Subsection 3349.8(l) is adopted to read:

(l) The San Quentin Litigation Coordinator shall assemble all appropriate reports, place them into the Master Execution File, and maintain the Master Execution File.

New Subsection 3349.8(m) is adopted to read:

(m) The San Quentin Warden shall ensure the CDCR Form 2178 (10/15), Return on Execution Warrant, which is hereby incorporated by reference, is completed and forward it and a copy of the Certificate of Death to the Clerk of the Court from which the inmate was under sentence of death pursuant to Penal Code Section 3607.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3603, 3604, 3605, 3700, 3700.5, 3701, 3702, 3703, 3704, and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27.; *Baze v. Rees* (2008) 553 U.S.35 *Towery v. Brewer* (2012) 672 F.3d 650.

New Section Title 3349.9 is adopted to read:

3349.9 Lethal Injection Record Keeping and Documentation.

New Subsection 3349.9(a) is adopted to read:

(a) Upon receipt of the execution warrant, the Litigation Coordinator at the institution where the inmate is housed shall be responsible for the security of all documents generated to be included in the Master Execution File prior to transfer of the inmate to the Lethal Injection Facility. Upon transfer the San Quentin Litigation Coordinator shall assume responsibility.

New Subsection 3349.9(b) is adopted to read:

(b) The Warden of the institution where the inmate is housed is responsible to ensure that all documents generated by staff associated with the inmate to be executed are accurate, completed in a timely manner, and forwarded to the Litigation Coordinator who shall retain a copy and send the original document to the San Quentin Warden.

New Subsection 3349.9(c) is adopted to read:

(c) The Team Supervisor shall ensure that all documents generated by the Lethal Injection Team are accurate, completed in a timely manner, and forwarded to the Team Administrator for review. Upon completion of review, the Team Administrator shall forward the documents to the San Quentin Litigation Coordinator for inclusion in the Master Execution File.

New Subsection 3349.9(d) is adopted to read:

(d) The San Quentin Litigation Coordinator shall maintain the Master Execution File in the San Quentin Warden's office complex. The Master Execution File shall serve as a permanent record of all documents related to the execution and shall be archived in the San Quentin Warden's office complex.

New Subsections 3349.9(e) through 3349.9(e)(28) are adopted to read:

(e) The Master Execution File shall include the following documents:

(1) People's Application for Appointment of Execution Date.

(2) Execution Warrant.

- (3) CDCR Form 1801 (Rev. 10/15), Notification of Execution Date and Choice of Execution Method.
- (4) CDCR Form 1801-B (Rev. 10/15), Service of Execution Warrant -Warden's Initial Interview.
- (5) Notice of execution warrant to Director, Division of Adult Institutions.
- (6) Notice of execution warrant to Governor's Legal Affairs Secretary.
- (7) Memorandum identifying Alienist Panel.
- (8) CDCR Form 1801-A (Rev. 10/15), Choice of Execution Method.
- (9) CDCR Form 1801-C (10/15), Request For Approval of Witnesses.
- (10) CDCR Form 1801-D (10/15), Last Meal Request.
- (11) CDCR Form 1801-E (10/15), Disposition of Personal Property.
- (12) CDCR Form 1801-F (10/15), Release of Remains and Burial Arrangements.
- (13) CDCR Form 2173 (10/15), 20 Day Pre-Execution Report, pursuant to Penal Code 3700.5.
- (14) CDCR Form 2174 (10/15), Notification By Warden To The District Attorney Concerning Sanity of Condemned Inmate.
- (15) CDCR Form 2175 (10/15), 7 Day Pre-Execution Report.
- (16) CDCR Form 2176 (10/15), Lethal Injection Chain of Custody,~~San Quentin State Prison.~~
- (17) CDCR Form 2177-A (~~10/15~~ 06/17), San Quentin State Prison ~~Lethal Injection Infusion Sub-Team Execution Log - Pentobarbital-Lethal Injection Infusion Sub-Team~~ or CDCR Form 2177-B (06/17), ~~San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log – Thiopental.~~
- (18) CDCR Form 2178 (10/15), Return on Execution Warrant.
- (19) CDCR Form 2179 (10/15), San Quentin State Prison ~~Lethal Injection Intravenous Sub-Team Execution Log-Lethal Injection Intravenous Sub-Team.~~ ~~Lethal Injection Intravenous Sub-Team.~~
- (20) CDCR Form 2181 (10/15), San Quentin State Prison ~~Lethal Injection Team Administrator/Team Supervisor Execution Log-Lethal Injection Team Administrator/Team Supervisor.~~ ~~Lethal Injection Team Administrator/Team Supervisor.~~
- (21) CDCR Form 2182 (10/15), San Quentin State Prison Execution Report-Team Supervisor.
- (22) CDCR Form 2183 (10/15), San Quentin State Prison Execution Report – Team member.
- (23) Condemned inmate's Pre-Execution Logbook.
- (24) Copies of Lethal Injection Team training documentation for the three calendar days immediately preceding the execution.
- (25) Copies of Inmate Visiting Records.
- (26) If force was utilized at any point during the lethal injection process, CDCR Form 2182 (10/15), San Quentin State Prison Execution Report-Team Supervisor, shall be forwarded to the Executive Use of Force Review Committee to include in its review. When the Committee has completed their review of the Use of Force, the Executive Use of Force Review Committee findings and all associated documentation shall be added to the Master Execution File.

(27) The Execution Report

(28) Any and all other documents relative to the execution.

New Subsection 3349.9(f) is adopted to read:

(f) After an execution has concluded, the Team Administrator shall review the Master Execution File to ensure that all documents are accounted for and appropriately categorized.

New Subsection 3349.9(g) is adopted to read:

(g) In the event the execution is stayed, the Master Execution File shall be closed and remain in the San Quentin Warden's Office complex indefinitely.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 190, 3600, 3601, 3602, 3603, 3604, 3605, 3700, 3700.5, 3701, 3702, 3703, 3704, 3705, 3706 and 5054, Penal Code; United States Constitution, Amendment VIII; California Constitution, Art. 1, Sections 17, 27.; *Baze v. Rees* (2008) 553 U.S.35 and *Towery v. Brewer* (2012) 672 F.3d 650.

**LETHAL INJECTION CHAIN OF CUSTODY
SAN QUENTIN STATE PRISON**

This form is the chain of custody that accompanies the Lethal Injection Protocol Chemical scheduled for the execution of _____ at _____ on _____.
Inmate name CDCR # Time Date

STEP 1. Procurement of Obtain the Lethal Injection Chemical from the Lethal Injection Chemical Supplier Pharmacy or Distributor

--	--	--

Chemical name Lot # Expiration Date

--	--	--

Type and quantity of packages Volume per package vial Total amount
Number of vials

--

Name of Lethal Injection Chemical Supplier pharmacy or distributor

Received by _____ Date _____ Time _____
Lethal Injection Team Member Team Supervisor

Received Verified by _____ Date _____ Time _____
Team Supervisor

Verified by _____ Date _____ Time _____
Team Administrator

STEP 2. Transfer of the Lethal Injection Chemical from the Lethal Injection Facility safe to the Infusion Sub-Team

--	--	--

Chemical name Lot # Expiration Date

--	--	--

Type and quantity of packages Volume per package vial Total amount
Number of vials

Received by _____ Date _____ Time _____
Infusion Sub-Team Member

Received Verified by _____ Date _____ Time _____
Team Supervisor Infusion Sub-Team Member

Verified by _____ Date _____ Time _____
Infusion Sub-Team Member Team Supervisor

STEP 3. Transfer of unused Lethal Injection Chemical from the Infusion Sub-Team to the Lethal Injection Facility safe (if necessary)

--	--	--

Chemical name

Lot #

Expiration Date

--	--	--

Type and quantity of packages
Number of vials

Volume per package vial

Total amount

--

Reason Lethal Injection Chemical Not Used

Received by _____ Date _____ Time _____
Team Supervisor

Verified by _____ Date _____ Time _____
Infusion Sub-Team Member

Verified by _____ Date _____ Time _____
Infusion Sub-Team Member

STEP 4. Final signature after completion of the lethal injection protocol.
(Original signed form to remain with Lethal Injection Chemical)

Team Administrator: _____ / _____
Print Name Date Time

Signature

Team Supervisor: _____ / _____
Print Name Date Time

Signature

San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log

Inmate Name	CDCR #	Date of Execution

Record Keeping Team Member Identification #: _____

Lethal Injection Chemical _____

Total Dose _____ Dose per syringe _____

DELETED

Step	Task	Time	Comments
1.	Infusion Sub-Team Members arrive at the Lethal Injection Facility.		
2.	Transfer of chemicals to Infusion Sub-Team; (chain of custody).		
3.	Mix Lethal Injection Chemical according to manufacturer's instructions (if necessary).		
TRAY A – Primary - Red			
4.	Draw the specified amount of the designated Lethal Injection Chemical into a 60cc syringe.		
5.	Label this syringe in red; [Lethal Injection Chemical name] A-1		
6.	Repeat step 4 and label this syringe in red; A-2		
7.	Repeat step 4 and label this syringe in red; A-3		
8.	Repeat step 4 and label this syringe in red; A-4		
9.	Repeat step 4 and label this syringe in red; A-5		
10.	Draw 50cc of normal saline into a 60cc syringe and label in red; A-6 Saline.		
TRAY B – Backup - Blue			
11.	Draw the specified amount of the designated Lethal Injection Chemical into 60cc syringe.		
12.	Label this syringe in blue; [Lethal Injection Chemical name] B-1		
13.	Repeat step 11 and label this syringe in blue; B-2		
14.	Repeat step 11 and label this syringe in blue; B-3		
15.	Repeat step 11 and label this syringe in blue; B-4		
16.	Repeat step 11 and label this syringe in blue; B-5		
17.	Draw 50cc of normal saline into a 60cc syringe and label in blue; B-6 Saline.		
TRAY C – Alternate Backup - Yellow			
18.	Draw the specified amount of the designated Lethal Injection Chemical into a 60cc syringe.		
19.	Label this syringe in yellow; [Lethal Injection Chemical name] C-1		

Step	Task	Time	Comments
20.	Repeat step 18 and label this syringe in yellow; C-2		
21.	Repeat step 18 and label this syringe in yellow; C-3		
22.	Repeat step 18 and label this syringe in yellow; C-4		
23.	Repeat step 18 and label this syringe in yellow; C-5		
24.	Draw 50cc of normal saline into a 60cc syringe and labeled in yellow: C-6 Saline.		
25.	Infusion Sub-Team or Intravenous Sub-Team member verifies proper preparation of Trays A, B and C.		
INFUSION. Once death is declared, infusion of any remaining chemical shall cease.			
26.	Inject syringe #A-1		
27.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 28.		
28.	Inject syringe #A-2		
29.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 30. If the inmate remains conscious, discontinue Tray A and initiate Tray B in backup intravenous catheter step 35.		
30.	Inject syringe #A-3		
31.	Inject syringe #A-4		
32.	Inject syringe #A-5		
33.	Inject syringe #A-6 Saline Flush.		
34.	Backup. If all six syringes in Tray A have been administered and death has not been pronounced after 10 minutes, or if at any time during infusion the primary catheter has failed, continue to Tray B.		
35.	Inject syringe # B-1		
36.	Inject syringe # B-2		
37.	Inject syringe # B-3		
38.	Inject syringe # B-4		
39.	Inject syringe # B-5		
40.	Inject syringe # B-6 Saline Flush.		
41.	Alternate Backup. If all six syringes in Tray B have been administered and death has not been pronounced after 10 minutes, continue to Tray C.		
42.	Inject syringe # C-1		
43.	Inject syringe # C-2		
44.	Inject syringe # C-3		
45.	Inject syringe # C-4		
46.	Inject syringe # C-5		
47.	Inject syringe # C-6 Saline Flush.		
48.	Additional Syringes. If all six syringes in Tray C have been administered and death has not been pronounced after 10 minutes, prepare five additional syringes for administration through the alternate backup IV line.		

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Step	Task	Time	Comments
49.	Mix Lethal Injection Chemical according to manufacturer's instructions (if necessary).		
50.	Infusion Sub-Team or Intravenous Sub-Team member verifies proper preparation of five additional syringes.		
51.	Inject first additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 52.		
52.	Inject second additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 53.		
53.	Inject third additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 54.		
54.	Inject fourth additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 55.		
55.	Inject fifth additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 56.		
56.	Additional Syringes. If all five syringes have been administered and death has not been pronounced after 10 minutes, prepare five additional syringes for administration through the alternate backup IV line.		
57.	Mix Lethal Injection Chemical according to manufacturer's instructions (if necessary).		
58.	Infusion Sub-Team or Intravenous Sub-Team member verifies proper preparation of five additional syringes.		
59.	Inject first additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 60.		
60.	Inject second additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 61.		
61.	Inject third additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 62.		
62.	Inject fourth additional syringe. Wait 10 minutes. If death has not been pronounced, continue to step 63.		
63.	Inject fifth additional syringe.		

DELETED

Physician pronounces the inmate dead.		
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Lethal Injection Team Administrator

Date

San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log - Pentobarbital

Inmate Name	CDCR #	Date of Execution

Record Keeping Sub-Team Member Identification #: _____

Lethal Injection Chemical _____

Total Dose Per Syringe _____

Total Dose Per Tray _____

Step	Task	Time	Comments
1.	Infusion Sub-Team Members arrive at the Lethal Injection Facility.		
2.	Transfer of chemicals to Infusion Sub-Team.		
3.	Prepare Lethal Injection Chemical according to Lethal Injection Chemical Supplier instructions.		
TRAY A – Primary - Red			
4.	Draw 2.5 grams of the designated Lethal Injection Chemical into a syringe.		
5.	Label this syringe in red; A-1.		
6.	Repeat step 4 and label this syringe in red; A-2.		
7.	Repeat step 4 and label this syringe in red; A-3.		
8.	Draw saline flush into a syringe and label in white; A-4		
TRAY B – Backup - Blue			
9	Draw 2.5 grams of the designated Lethal Injection Chemical into a syringe.		
10.	Label this syringe in blue; B-1.		
11.	Repeat step 9 and label this syringe in blue; B-2		
12.	Repeat step 9 and label this syringe in blue; B-3		
13.	Draw saline flush into a syringe and label in white; B-4		
TRAY C – Alternate Backup - Yellow			
14.	Draw 2.5 grams of the designated Lethal Injection Chemical into a syringe.		
15.	Label this syringe in yellow; C-1.		
16.	Repeat step 14 and label this syringe in yellow; C-2.		
17.	Repeat step 14 and label this syringe in yellow; C-3.		
18.	Draw saline flush into a syringe and label in white; C-4		
INFUSION. Once death is declared, infusion of any remaining chemical shall cease.			
19.	Infusion Sub-Team member or Intravenous Sub-Team member verifies proper preparation of Trays A, B and C.		
20.	Saline drip for primary catheter stopped.		
21.	Inject syringe #A-1.		

Step	Task	Time	Comments
22.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 23.		
23.	Inject syringe #A-2.		
24.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 25. If the inmate remains conscious, discontinue Tray A and initiate Tray B in the backup intravenous catheter (step 27).		
25.	Inject syringe #A-3.		
26.	Inject syringe #A-4 Saline Flush.		
	Backup. If all four syringes in Tray A have been administered and death has not been declared after 10 minutes, or if at any time during infusion the primary catheter has failed, continue to Tray B.		
27.	Saline drip for backup catheter stopped.		
28.	Inject syringe # B-1.		
29.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 30.		
30.	Inject syringe # B-2.		
31.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 32. If the inmate remains conscious, discontinue Tray B and initiate Tray C in the alternate backup intravenous catheter (step 34).		
32.	Inject syringe # B-3.		
33.	Inject syringe # B-4 Saline Flush.		
	Alternate Backup. If all four syringes in Tray B have been administered and death has not been declared after 10 minutes, or if at any time during infusion the backup catheter has failed, continue to Tray C.		
34.	Saline drip for alternate backup catheter stopped.		
35.	Inject syringe # C-1.		
36.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 37.		
37.	Inject syringe # C-2.		
38.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 39. If the inmate remains conscious, discontinue Tray C. The execution shall be stopped and medical assistance summoned.		
39.	Inject syringe # C-3.		
40.	Inject syringe # C-4 Saline Flush.		
	Physician declares death.		

Lethal Injection Team Administrator

Date

San Quentin State Prison Lethal Injection Infusion Sub-Team Execution Log - Thiopental

Inmate Name	CDCR #	Date of Execution

Record Keeping Sub-Team Member Identification #: _____

Lethal Injection Chemical _____

Total Dose Per Syringe _____

Total Dose Per Tray _____

Step	Task	Time	Comments
1.	Infusion Sub-Team Members arrive at the Lethal Injection Facility.		
2.	Transfer of chemicals to Infusion Sub-Team.		
3.	Prepare Lethal Injection Chemical according to Lethal Injection Chemical Supplier instructions.		
TRAY A – Primary - Red			
4.	Draw 1.5 grams of the designated Lethal Injection Chemical into a syringe.		
5.	Label this syringe in red; A-1.		
6.	Repeat step 4 and label this syringe in red; A-2.		
7.	Repeat step 4 and label this syringe in red; A-3.		
8.	Repeat step 4 and label this syringe in red; A-4.		
9.	Repeat step 4 and label this syringe in red; A-5.		
10.	Draw saline flush into a syringe and label in white; A-6		
TRAY B – Backup - Blue			
11.	Draw 1.5 grams of the designated Lethal Injection Chemical into a syringe.		
12.	Label this syringe in blue; B-1.		
13.	Repeat step 11 and label this syringe in blue; B-2.		
14.	Repeat step 11 and label this syringe in blue; B-3.		
15.	Repeat step 11 and label this syringe in blue; B-4.		
16.	Repeat step 11 and label this syringe in blue; B-5.		
17.	Draw saline flush into a syringe and label in white; B-6		
TRAY C – Alternate Backup - Yellow			
18.	Draw 1.5 grams of the designated Lethal Injection Chemical into a syringe.		
19.	Label this syringe in yellow; C-1.		
20.	Repeat step 18 and label this syringe in yellow; C-2.		
21.	Repeat step 18 and label this syringe in yellow; C-3.		
22.	Repeat step 18 and label this syringe in yellow; C-4.		
23.	Repeat step 18 and label this syringe in yellow; C-5.		
24.	Draw saline flush into a syringe and label in white; C-6		

Step	Task	Time	Comments
INFUSION. Once death is declared, infusion of any remaining chemical shall cease.			
25.	Infusion Sub-Team member or Intravenous Sub-Team member verifies proper preparation of Trays A, B and C.		
26.	Saline drip for primary catheter stopped.		
27.	Inject syringe #A-1.		
28.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 30.		
30.	Inject syringe #A-2.		
31.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 32. If the inmate remains conscious, discontinue Tray A and initiate Tray B in the backup intravenous catheter (step 36).		
32.	Inject syringe #A-3.		
33.	Inject syringe #A-4.		
34.	Inject syringe #A-5.		
35.	Inject syringe #A-6 Saline Flush.		
	Backup. If all six syringes in Tray A have been administered and death has not been declared after 10 minutes, or if at any time during infusion the primary catheter has failed, continue to Tray B.		
36.	Saline drip for backup catheter stopped.		
37.	Inject syringe # B-1.		
38.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 39 below.		
39.	Inject syringe # B-2.		
40.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 41. If the inmate remains conscious, discontinue Tray B and initiate Tray C in the alternate backup intravenous catheter (step 45).		
41.	Inject syringe # B-3.		
42.	Inject syringe # B-4.		
43.	Inject syringe # B-5.		
44.	Inject syringe # B-6 Saline Flush.		
	Alternate Backup. If all six syringes in Tray B have been administered and death has not been declared after 10 minutes, or if at any time during infusion the backup catheter has failed, continue to Tray C.		
45.	Saline drip for alternate catheter stopped.		
46.	Inject syringe # C-1.		
47.	Consciousness check. If the inmate is not unconscious, check the catheter for patency. Continue to step 48 below.		
48.	Inject syringe # C-2.		

Step	Task	Time	Comments
49.	Consciousness check (if necessary). If the inmate is unconscious, continue to step 50. If the inmate remains conscious, discontinue Tray C. The execution shall be stopped and medical assistance summoned.		
50.	Inject syringe # C-3.		
51.	Inject syringe # C-4.		
52.	Inject syringe # C-5.		
53.	Inject syringe # C-6 Saline Flush.		
	Physician declares death.		

Lethal Injection Team Administrator

Date

SAMPLE

San Quentin State Prison Lethal Injection Intravenous Sub-Team Execution Log

Inmate Name	CDCR#	Date of Execution

Record Keeping Sub-Team Member Identification # _____

Step	Task	Time	Comments
1.	IV tubing and needles given final check.		
2.	ECG pads are placed on inmate's chest.		
3.	ECG leads attached to monitor.		
4.	Inspect inmate restraints to ensure circulation.		
5.	Insert intravenous catheter – Primary.		
6.	Primary catheter patency confirmed.		
7.	Intravenous drip initiated – Primary.		
8.	Insert intravenous catheter – <u>Secondary Backup</u>		
9.	<u>Secondary Backup</u> catheter patency confirmed.		
10.	Intravenous drip initiated – <u>Secondary Backup</u> .		
11.	<u>Insert intravenous catheter - Alternate backup.</u>		
12.	<u>Alternate backup catheter patency confirmed.</u>		
13.	<u>Intravenous drip initiated - Alternate backup.</u>		
14.	One Intravenous Sub-Team Member exits Lethal Injection Room and goes to Infusion Room to record infusion of chemicals on ECG graph paper.		
15.	One Intravenous Sub-Team Member takes position next to inmate to monitor intravenous lines and assess the consciousness of the inmate.		
INFUSION. Once death is declared, infusion shall cease.			
16.	Saline drip in primary arm <u>infusion site</u> is stopped.		
17.	Syringe #A-1 administered; mark ECG graph paper #A-1.		
18.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness. <u>Check catheter for patency if inmate is not unconscious.</u>		
19.	Syringe #A-2 administered; mark ECG graph paper #A-2.		
20.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness (if necessary).		
21.	Syringe #A-3 administered; mark ECG graph paper #A-3.		
22.	Syringe #A-4 administered; mark ECG graph paper #A-4.		
<u>If Thiopental Is Used, Proceed to Step 23 Below.</u>			
23.	Syringe #A-5 administered; mark ECG graph paper #A-5.		
24.	Syringe #A-6 administered; mark ECG graph paper #A-6.		
If chemicals on Tray B are used the backup catheter will be used.			
25.	<u>Saline drip in backup site is stopped.</u>		
26.	Syringe #B-1 administered; mark ECG graph paper #B-1.		

27.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness. <u>Check catheter for patency if inmate is not unconscious.</u>		
28.	Syringe #B-2 administered; mark ECG graph paper #B-2.		
29.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness (if necessary).		
30.	Syringe #B-3 administered; mark ECG graph paper #B-3.		
31.	Syringe #B-4 administered; mark ECG graph paper #B-4.		
<u>If Thiopental Is Used, Proceed to Step 32 Below.</u>			
32.	Syringe #B-5 administered; mark ECG graph paper #B-5.		
33.	Syringe #B-6 administered; mark ECG graph paper #B-6.		
<u>If chemicals on Tray C are used the alternate backup catheter will be used.</u>			
28.	Insert intravenous catheter – Alternate backup.		
29.	Alternate backup catheter patency confirmed.		
30.	Intravenous drip initiated – Alternate backup.		
34.	Saline drip in alternate backup site is stopped.		
35.	Syringe #C-1 administered; mark ECG graph paper #C-1.		
36.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness. <u>Check catheter for patency if inmate is not unconscious.</u>		
37.	Syringe #C-2 administered; mark ECG graph paper #C-2.		
38.	Sub-Team Member in Lethal Injection Room checks inmate for consciousness (if necessary).		
39.	Syringe #C-3 administered; mark ECG graph paper #C-3.		
40.	Syringe #C-4 administered; mark ECG graph paper #C-4.		
<u>If Thiopental Is Used, Proceed to Step 41 Below.</u>			
41.	Syringe #C-5 administered; mark ECG graph paper #C-5.		
42.	Syringe #C-6 administered; mark ECG graph paper #C-6.		
<u>If additional syringes are used the alternate backup catheter will be used.</u>			
37.	Syringe #1 administered; mark ECG graph paper #X 1.		
38.	Syringe #2 administered; mark ECG graph paper #X 2.		
39.	Syringe #3 administered; mark ECG graph paper #X 3.		
40.	Syringe #4 administered; mark ECG graph paper #X 4.		
41.	Syringe #5 administered; mark ECG graph paper #X 5.		
<u>If additional syringes are used the alternate backup catheter will be used.</u>			
42.	Syringe #6 administered; mark ECG graph paper #X 6.		
43.	Syringe #7 administered; mark ECG graph paper #X 7.		
44.	Syringe #8 administered; mark ECG graph paper #X 8.		
45.	Syringe #9 administered; mark ECG graph paper #X 9.		
46.	Syringe #10 administered; mark ECG graph paper #X 10.		
43.	Mark ECG graph paper when death is <u>declared pronounced.</u>		
44.	Prepare final report.		

Lethal Injection Team Administrator

Date

SAMPLE

San Quentin State Prison Lethal Injection Team Administrator/Team Supervisor Execution Log

Inmate Name	CDCR #	Date of Execution

Record Keeping Sub-Team Member Identification # _____

Step	Task	Time	Comments
1.	3 hours prior: Assemble <u>Record-Keeping</u> Sub-Team and make assignments.		
Record Keeping Sub-Team activated; Execution Logs begin.			
2.	The Lethal Injection Team <u>Supervisor</u> will removes the Lethal Injection <u>Chemicals</u> from the Lethal Injection Facility safe.		
3.	The Lethal Injection Team <u>Supervisor</u> will transfers custody of the Lethal Injection <u>Chemicals</u> to two members of the Lethal Injection Infusion Sub-Team and completes the <u>CDCR Form 2176 Lethal Injection Chain of Custody form</u> from <u>San Quentin State Prison.</u>		
4.	The Team Administrator along with the Warden of San Quentin will meet with the condemned inmate in the Lethal Injection Facility holding cell area. <ul style="list-style-type: none"> • Ask if the inmate wishes to write a last statement to be read after the execution. • <u>Advise the inmate a sedative may be requested, and if approved by a physician, the sedative shall be administered under their direction. Inform the inmate that a sedative is available. Valium or its equivalent will be administered under the direction and approval of a physician clinician.</u> 		
5.	The Lethal Injection Team Administrator and Team Supervisor will take positions in the Infusion Control room.		
6.	Infusion of Lethal Injection <u>Chemicals</u> is initiated.		
7.	Flat line noted on ECG.		
8.	Death pronounced <u>declared.</u>		
9.	Witnesses notified that inmate has expired.		
10.	Curtains drawn on viewing windows.		
11.	Inmate's body prepared for Coroner/Mortuary.		
If chemicals on Tray B are used the backup catheter will be used.			
12.	Repeat protocol.		
13.	Flat line noted on ECG.		
14.	Death pronounced <u>declared.</u>		
15.	Witnesses notified that inmate has expired.		
16.	Curtains drawn on viewing windows.		
17.	Inmate's body prepared for Coroner/Mortuary.		
If chemicals on Tray C are used the alternate backup catheter will be used.			

SAN QUENTIN STATE PRISON LETHAL INJECTION
TEAM ADMINISTRATOR/TEAM LEADER SUPERVISOR EXECUTION LOG
 CDCR 2181 (10/15)

Page 2 of 2

Step	Task	Time	Comments
18.	Repeat protocol.		
19.	Flat line noted on ECG.		
20.	Death pronounced declared.		
21.	Witnesses notified that inmate has expired.		
22.	Curtains drawn on viewing windows.		
23.	Inmate's body prepared for Coroner/Mortuary.		
If additional syringes are used the alternate backup catheter will be used.			
24.	Repeat protocol.		
25.	Flat line noted on ECG.		
26.	Death pronounced.		
27.	Witnesses notified that inmate has expired.		
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If additional syringes are used the alternate backup catheter will be used.			
30.	Repeat protocol.		
31.	Flat line noted on ECG.		
32.	Death pronounced.		
33.	Witnesses notified that inmate has expired.		
34.	Curtains drawn on viewing windows.		
35.	Inmate's body prepared for Coroner/Mortuary.		

Lethal Injection Team Administrator: _____

Date: _____

Attachment I

VOLUME IX

Doc	Subject	©
1	Georgia Dept. of Corrections, Lethal Injection Procedures (July 17, 2012)	
2	Idaho Department of Correction, Execution Procedures (Adopted May 18, 1998, reviewed January 6, 2012)	
3	Texas Department of Criminal Justice, Execution Procedure (July 2012)	
4	Ohio Department of Rehabilitation and Correction, Number 01-COM-11, Execution Policy (October 7, 2016)	

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