

State of California
Office of Administrative Law

In re:
Board of Parole Hearings

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections:

Amend Sections:

Repeal sections: 2600, 2603, 2604, 2605,
2606, 2615, 2616, 2617,
2618, 2619, 2620, 2635,
2635.1, 2636, 2638, 2639,
2640, 2641, 2642, 2643
2644, 2645, 2646, 2646.1,
2647, 2647.1, 2648, 2649,
2710, 2711, 2712, 2714

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**Government Code of Regulations,
Title 1, Section 100**

OAL File No. 2014-1014-04 N

The Board of Parole is repealing several sections as change without regulatory effect due to several legislative reforms to California's parole system, collectively referred to as "Criminal Justice Realignment," revising state law to divert the majority of non-serious, non-violent offenders to incarceration and post-release supervision at the local level.

OAL Approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 11/26/2014

Original Signed by: Debra M. Cornez
Debra M. Cornez
Director

Original: Jennifer Shaffer
Copy: Erin Finnegan

State of California – Office of Administrative Law
Notice Publication/Regulations Submission
Std. 400 (Rev. 01-2013)

[Stamp]
[NONSUBSTANTIVE]

OAL File Numbers
Notice File Number: **[Blank]**
Regulatory Action Number: **[2014-1014-04N]**
Emergency Number: **[Blank]**

For use by Office of Administrative Law (OAL) only
REGULATIONS SECTION
[Date Stamp]
[October 14, 2014 at 3:12 PM]
Office of Administrative Law

For Use by Secretary of State Only
[Stamp]
[ENDORSED –November 26, 2014 at 1:41 PM]

Agency with Rulemaking Authority: **[California Board of Parole Hearings]**
Agency File Number: **[RN 14-01]**

A. Publication of Notice (Complete for publication in Notice Register)

1. Subject of Notice: **[Parole Revocation and Warrants]**
Title(s): **[15]**
First Section Affected: **[2600]**
2. Requested Publication Date: **[Friday, October 24, 2014]**
3. Notice Type: **[Checked Other]**
4. Agency Contact Person: **[Erin Finnegan]**
Telephone Number: **[(916) 324-6642]**
Fax Number: **[(916) 322-3475]**

OAL Use only

Action on Proposed Notice: **[Not Checked]** Approved as submitted;
[Not Checked] Approved as modified;
[Not Checked] Disapproved/Withdrawn

Notice Register Number: **[Blank]**
Publication Date: **[Blank]**

B. Submission of Regulations (Complete when submitting regulation)

1a. Subject of Regulation(s): **[Parole Revocation and Warrants]**

1b. All Previous related OAL Regulatory Action Number(s): **[None]**

2. Specify California Code of Regulation Titles and Sections (Including title 26, if toxics related)

Section(s) Affected (List all section number(s) individually. Attach additional sheet if needed.)

Title(s): **[15]**

Adopt: **[Blank]**

Amend: **[Blank]**

Repeal: **[See Attached]**

3. Type of Filing

[Checked] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

4. All beginning and ending dates of availability of modified regulations and/or material added to the rulemaking file (Cal. Code Regs, title 1, §44 and Gov. Code §11347.1):

[Blank]

5. Effective Date of Changes (Gov. Code, §§11343.4, 11346.1(d); Cal. Code Regs, title 1, §100): **[Checked] §100 Changes Without Regulatory Effect**

6. Check if these regulations require notice to, or review, consultation, approval or concurrence by, another agency or entity. **[Blank]**

7. Contact Person: **Erin Finnegan, Attorney**

Telephone Number: **(916) 324-6642**

Fax Number (Optional): **(916) 322-3475**

Email Address: erin.finnegan@cdcr.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

Signature of Agency Head or Designee: [Original Signed by Jennifer P. Shaffer]

Typed Name and Title of Signatory: Jennifer P. Shaffer, Executive Officer

Date: 10/14/2014

For use by Office of Administrative Law (OAL) only

[Stamp]

[ENDORSED APPROVED, November 26, 2014 Office of Administrative Law]

Continued list of sections affected and to be repealed

2600, 2603, 2604, 2605, 2606, 2615, 2616, 2617, 2618, 2619, 2620, 2635, 2635.1, 2636, 2638,
2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2646.1, 2647, 2647.1, 2648, 2649, 2710, 2711,
2712, 2714

CHANGES WITHOUT REGULATORY EFFECT

Proposed additions are indicated by underline and deletions are indicated by ~~striketthrough~~.

TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PAROLE HEARINGS PRISON TERMS CHAPTER 6. PAROLE REVOCATION

[Begin striketthrough] **Section § 2600.** ~~General.~~

~~A parole agent may impose a parole hold only when the parole agent determines that the parolee falls within the criteria listed in Section 2601, and there is probable cause to believe the parolee has violated parole.~~

~~The hold decision must be made in every case regardless of the type of crime or parole violation with which the parolee is charged and regardless of whether another criminal justice agency is detaining the parolee.~~

~~A parole agent may place a parole hold on a parolee when he is already confined as the result of a new criminal charge or may arrest a parolee and place him in a local jail facility on a parole hold pending investigation of alleged parole violations.~~

~~The fact that a parolee has been released on bail or his own recognizance does not serve as a substitute for the parole agent's decision to place a hold. The board must consider the threat to the community. A case may be presented to the board at the central office calendar for a decision regarding the placement of a parole hold.~~

~~An absconder whose parole has been suspended and who has been subsequently apprehended, but who does not require the placement of a parole hold under one of the criteria listed in Section 2601 should be reported to the board at the central office calendar to be reinstated on parole pending further determination, and any outstanding warrants should be recalled.~~

~~The primary concern shall be for public safety.~~

~~Note: Authority cited: Section 3052, Penal Code. Reference: Sections 3000(b)(7) and 3060, Penal Code. [End striketthrough]~~

Section § 2603 [Begin striketthrough] ~~Review of a Parole Hold.~~

~~(a) Initial Review. As soon as possible, but no later than 4 days after the placement of a parole hold, the parole agent must have a case conference with the unit supervisor to determine whether the parole hold should be continued.~~

~~(b) Replacing a Parole Hold. Once a parole hold is dropped, it should not be replaced unless new information has been received which indicates that the parolee falls within Section 2601. If the parole hold is replaced, the parolee shall be given the reasons in writing as provided in Section 2604.~~

~~(c) Later Removal of a Parole Hold. In appropriate cases, the district administrator may later remove a parole hold.~~

~~(d) Board Review. The board is authorized to order a parole hold placed, replaced, or removed at any time. The board decision regarding a parole hold is final. On a semi-annual basis the P&CSD shall provide the board information regarding the use of parole holds. [End strikethrough]~~

Section § 2604. [Begin strikethrough] Reasons for Parole Hold.

~~In all cases, the parole agent must notify the parolee in writing of the reasons for the hold as soon as possible but no later than 7 days after placement of the parole hold. If the hold has been placed or replaced by the board, the board must notify the parolee in writing of the reasons for the hold. At the time the parolee is notified of the reasons for the parole hold P&CSD staff shall also notify the parolee of his right to appeal the decision and the procedure for filing the appeal. [End strikethrough]~~

Section § 2605. [Begin Strikethrough] Transfer to Prison.

~~Parolees on a parole hold only shall be retained in local custody pending a hearing.~~

~~(a) Medical Transfer. When a parolee presents a serious custodial risk and requires medical treatment necessitating hospitalization which cannot be provided locally because of lack of adequate detention facilities the parolee may be returned to prison upon written order of the judge of the superior court as provided in Penal Code section 4007.~~

~~(b) Emergency Transfer. A parolee may be returned to prison on an emergency basis if he cannot be physically retained in local custody pending a hearing, as certified in writing by the local detaining agency.~~

~~(c) Emergency Transfer: Psychiatric Treatment. A parolee may be returned to prison on an emergency basis if he is alleged to be an individual described in Section 2616(a)(14) and if he or she cannot receive necessary psychiatric treatment pending a hearing, as certified in writing by the Parole and Community Services Division.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3056, Penal Code. [End strikethrough]~~

Section § 2606. ~~[Begin strikethrough] Length of Parole Hold.~~

~~(a) Crimes Committed On or Before December 31, 1978. Unless otherwise provided by law and except as provided in subdivision (c), if the crime for which the parolee was committed to prison occurred on or before December 31, 1978, the parole hold shall not remain in effect for longer than six months.~~

~~(b) Crimes Committed On or After January 1, 1979. Unless otherwise provided by law and except as provided in subdivision (c), if the crime for which the parolee was committed to prison occurred on or after January 1, 1979, the parole hold shall not remain in effect for longer than one year.~~

~~(c) Parole Hold/Discovery Date On or After October 1, 2011. Unless otherwise provided by law, for all parolees with a parole hold/discovery date on or after October 1, 2011, the parole hold shall not remain in effect for longer than 180 days.~~

~~(d) Discovery Date. For purposes of this chapter, the discovery date is the date the parole supervising authority obtains knowledge that an alleged violation of parole has occurred.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3056, 3057 and 3060.5, Penal Code. [End strikethrough]~~

Section 2615 ~~[Begin strikethrough] General.~~

~~The board is authorized to revoke parole in any case where the parolee has violated parole. Parole violations listed in s 2616(a) and (b) must be reported to the board. The P&CSD is authorized to dispose of any other parolee misconduct.~~

~~Note: Authority cited: Section 3052, Penal Code. Reference: Sections 3060 and 3063, Penal Code. [End strikethrough]~~

Section § 2616. ~~[Begin strikethrough] Reportable Information.~~

~~(a) Behavior Which Must Be Reported. The P&CSD shall report to the board any parolee who is reasonably believed to have engaged in the following kinds of behavior:~~

- ~~(1) Any conduct described in Penal Code section 667.5(c), or any conduct described in Penal Code section 1192.7(c), or any assaultive conduct resulting in serious injury to the victim.~~
- ~~(2) Possession, control, use of, or access to any firearms, explosive or crossbow or possession or use of any weapon as specified in subdivision (a) of California Penal Code section 12020, or any knife having a blade longer than two inches, except as provided in § 2512.~~
- ~~(3) Involvement in fraudulent schemes involving over \$1,000.~~
- ~~(4) Sale, transportation or distribution of any narcotic or other controlled substances as defined in division 10 of the California Health and Safety Code.~~
- ~~(5) A parolee whose whereabouts are unknown and has been unavailable for contact for thirty days.~~
- ~~(6) Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the P&CSD staff, including repetitive parole violations and escalating criminal conduct.~~
- ~~(7) The refusal to sign any form required by the Department of Justice explaining the duty of the person to register under Penal Code section 290.~~
- ~~(8) The failure to provide two blood specimens, a saliva sample, right thumb print impressions, and full palm print impressions of each hand as provided in Penal Code sections 295 through 300.3, requiring specified offenders to give samples before release.~~
- ~~(9) The failure to register as provided in Penal Code section 290, if the parolee is required to register.~~
- ~~(10) The failure to sign conditions of parole.~~
- ~~(11) Violation of the special condition prohibiting any active participation or assistance in, or promotion or furtherance of, prison gang, disruptive group, or criminal street gang activity, as enumerated in Penal Code section 186.22(c), if such condition was imposed.~~
- ~~(12) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group or criminal street gang, as defined in § 2513(c), or the wearing or displaying of any gang colors, signs, symbols, or paraphernalia associated with gang activity, if such condition was imposed.~~
- ~~(13) Violation of the special condition requiring compliance with any gang abatement injunction, ordinance, or court order, if such condition was imposed.~~
- ~~(14) Conduct indicating that the parolee's mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior.~~

~~(15) Violation of the residency restrictions set forth in Penal Code section 3003.5 for parolees required to register as provided in Penal Code section 290.~~

~~(b) In addition, for any parolee whose commitment offense is described in Penal Code section 1192.7(c), the P&CSD shall report to the board any such parolee who is reasonably believed to have engaged in the following kinds of behavior:~~

~~(1) Any behavior listed in paragraph (a).~~

~~(2) Any criminal conduct~~

~~(3) Any violation of a condition to abstain from alcoholic beverages.~~

~~(c) Behavior Which May be Reported. Any conduct which the parole agent, unit supervisor or district administrator feels is sufficiently serious to report, regardless of whether the conduct is being prosecuted in court.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code; and Terhune v. Superior Court (Whitley) (1998) 65 Cal.App.4th 864. Reference: Sections 186.22, 290, 295-300.3, 3000, 3003.5, 3053, 3056, 3057, 3060 and 3060.5, Penal Code; and Sections 11561 and 11563, Health and Safety Code. [End strikethrough]~~

Section 2617 [Begin strikethrough] ~~Investigation.~~

~~A parole agent shall investigate all cases of a parolee suspected of a parole violation. All available facts relating to the charged violation shall be documented. If the parolee is suspected of a violation which is being investigated as a new crime by a police agency, the parole agent should obtain a copy of the arresting agency's arrest and investigation report. If the parolee is suspected of a violation which is not being investigated as a new crime by a police agency, the parole agent should interview all persons who have knowledge of the conduct and record their statements. [End strikethrough]~~

Section 2618 [Begin strikethrough] ~~Parole Violation Report.~~

~~The parole violation report is a document prepared by the parole agent specifying the parole violation charges against a parolee, and containing or referring to the information known to the parole agent relevant to the charges. The parole violation report shall include a resume of the parolee's adjustment to community supervision. Any documents which relate to the parole violation shall be attached to the report or specifically identified in the report. [End strikethrough]~~

Section 2619 [Begin strikethrough] Supplemental Parole Violation Reports.

~~A supplemental parole violation report may be submitted to: report significant new information or evidence which tends to prove or disprove the violations previously charged; note court actions on charges which are being prosecuted in a criminal proceeding; expand, clarify or correct information in an earlier report; add or amend charges before a hearing is scheduled; provide the board with information not related to the violation, but which may affect the board's decision regarding the appropriate disposition; provide additional information to the board at any time requested by the board; or change the P&CSD recommendation. A copy of the supplemental parole violation report shall be given to the parolee within 4 days after the report has been submitted to the Board.~~

~~Note: Authority cited: Section 576.2, Penal Code. Reference: Sections 3052, 3053 and 3063, Penal Code. [End strikethrough]~~

Section 2620 [Begin strikethrough] Recommendations.

~~The P&CSD shall recommend the appropriate alternative necessary to deal with the violation charged. The primary concern shall be for the public safety. In a parole violation report the P&CSD may make the following recommendations:~~

- ~~(a) Continue on Parole. This recommendation may be used when the violation charged is not serious enough to warrant reimprisonment. A continue on parole recommendation may include a recommendation to delete, modify, or add special conditions of parole.~~
- ~~(b) Local Program. This recommendation may be used when the violation charged does not require reimprisonment of the parolee but does require treatment which can be obtained in a community facility or program.~~
- ~~(c) Schedule for Revocation Proceedings, Psychiatric Treatment. This recommendation shall be used only when a parolee's adjustment indicates the parolee may be suffering from a mental disorder which substantially impairs the parolee's ability to maintain himself or herself in the community, or which makes the parolee a danger to himself or herself or others, when necessary psychiatric treatment cannot be obtained in the community. The recommendation shall not be made when violations of another term or condition of parole are charged. When this recommendation is made a psychiatric report shall accompany the parole violation report and shall be made available to the hearing panel.~~

~~(d) Schedule for Revocation Proceedings. This recommendation may be used whenever the violation charged is so serious that reimprisonment is necessary whether or not the parolee is in need of medical or psychiatric treatment. This recommendation shall be used when a parolee who is required to register under Penal Code Section 290 fails to register within the time prescribed pursuant to Section 290(g) of the Penal Code. Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 290, 3000, 3053, 3056, 3057, and 3060, Penal Code; Sections 11561 and 11563, Health and Safety Code. [End strikethrough]~~

Section 2635 [Begin strikethrough] General.

~~All revocation hearings should be held in the community near where the alleged violation occurred unless the parolee has been transferred to the department under Section 2605. The time limits of Section 2640 apply to all revocation hearings. Prerevocation hearings may be held as provided in Section 2644 [End strikethrough]~~

Section 2635.1 [Begin strikethrough] Revocation Period.

~~(a) General. Any period of confinement ordered pursuant to revocation of parole shall be added to the period of parole not to exceed the maximum period of parole specified in Section 2515. The revocation periods specified in this section apply if the parolee has not received a new commitment to prison.~~

~~(b) Crimes Committed On or Before December 31, 1978. Unless otherwise provided by law and except as provided in subdivision (d), if the crime for which the parolee was committed to prison occurred on or before December 31, 1978, confinement pursuant to parole revocation shall not exceed six months. Time in custody on a parole hold prior to the revocation hearing shall be credited to the revocation period.~~

~~(c) Crimes Committed On or After January 1, 1979. Unless otherwise provided by law and except as provided in subdivision (d), if the crime for which the parolee was committed to prison occurred on or after January 1, 1979, confinement pursuant to parole revocation shall not exceed one year. Time in custody on a parole hold shall be credited to the revocation period.~~

~~(d) Parole Hold/Discovery Date On or After October 1, 2011. Unless otherwise provided by law, for all parolees with a parole hold/discovery date on or after October 1, 2011, confinement pursuant to a parole revocation shall not exceed 180 days. Time in custody on a parole hold shall be credited to the revocation period.~~

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. References: Sections 3056, 3057 and 3060.5, Penal Code.
35.4 [End strikethrough]

Section 2636 [Begin strikethrough] P&CSD Review.

(a) Case Conference. After placement of a parole hold or discovery of information indicating a possible violation of parole, a case conference shall be held to determine if the violation shall be reported to the board as required by Section 2616. If the decision is that the violation must be reported to the board, the parole agent shall prepare a parole violation report.

(b) Unit Supervisor Review. After preparation of a parole violation report, the unit supervisor shall review the report and either concur with the recommendation made or make an alternative recommendation. The unit supervisor shall submit the report to the District Administrator.

(c) District Administrator Review. The District Administrator shall review the parole violation report and either concur with the recommendation made or make an alternative recommendation.

(d) Notification to Board. The violation report shall be forwarded to the board at the central office calendar if the district administrator recommends any action other than schedule for revocation proceedings, if the parolee is in suspended status, if the parolee has an imminent discharge date or if the case requires any action other than schedule for revocation proceedings.

If the district administrator recommends that the parolee be scheduled for a prerevocation or revocation hearing and the case does not require any board action prior to the hearing, the district administrator shall notify the board hearing coordinator of the date the parolee was paroled, the date the parole hold was placed, and the need for a revocation hearing. The hearing coordinator shall schedule a revocation hearing based on that information and recommendation.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code. [End strikethrough]

Section § 2638. [Begin strikethrough] P&CSD Hearing Coordinator.

The board at the central office calendar shall notify the P&CSD hearing coordinator of a decision to order a revocation hearing. The P&CSD hearing coordinator shall assure that all necessary prehearing procedures are followed including making an attorney

determination under Chapter 6, Article 5 and screening witnesses under Chapter 6, Article 4. [End strikethrough]

Section 2639. [Begin strikethrough] Central Office Hearing Coordinator.

The P&CSD hearing coordinator shall notify the central office hearing coordinator of the decision regarding an attorney and witnesses. The central office hearing coordinator shall schedule the hearing and assure that an attorney is appointed if necessary. [End strikethrough]

Section 2640. [Begin strikethrough] Time Limits.

(a) General. The time limits specified in this section are intended to facilitate the timely completion of various segments of the revocation process in order to hold the revocation hearing within a reasonable time after the placement of the parole hold. These time limits are directory and do not affect the board's jurisdiction to hold a revocation hearing in the event of delay which does not prejudice the parolee. In any case in which the chief deputy commissioner determines that the time limits have been exceeded and the delay may prejudice the parolee, the board's Central Office Calendar shall act to complete the revocation hearing process without further delay or to dismiss the parole violation charges and remove the parole hold. These time limits shall be computed in calendar days. If a date falls on a weekend or holiday, the time limits shall be met on the next working day.

(b) Advice of Rights to Parolee.

(1) General. Upon notification that a revocation hearing has been ordered, the P&CSD hearing coordinator shall notify the parolee in writing of his rights within 24 days from the placement of the parole hold. In all cases the P&CSD hearing coordinator shall obtain a decision from the parolee regarding witnesses and an attorney within four days of serving the parolee with the notification of rights.

(c) Notification to Board. Within 23 days of the placement of the parole hold, the regional hearing coordinator shall notify the central office hearing coordinator that a revocation hearing should be scheduled, if that is the recommendation (see § 2636). If P&CSD does not recommend a revocation hearing the violation report shall be forwarded to the central office calendar within 23 days of placement of the hold.

(d) Central Office Hearing Coordinator. Upon notification of the decision regarding an attorney or witnesses, the central office hearing coordinator shall appoint an attorney, if

necessary, and shall schedule the revocation hearing to be held as provided in subsection (f). The central office hearing coordinator shall notify the P&GSD hearing coordinator of the date and time of the hearing.

(e) Hearing. The revocation hearing shall be held within a reasonable time after the placement of the parole hold, unless the parolee waives the hearing pursuant to § 2641. The parole revocation hearing should be held within 45 days of the date the parole hold is placed.

(f) Revocation Hearing: Psychiatric Treatment. If the parole agent determines the parolee cannot be retained locally pending the revocation hearing due to acute psychosis, the parole agent may request authorization from the board at its Central Office Calendar for an emergency return pursuant to § 2605(c). Transfer of the parolee in no way eliminates the responsibility of the parole agent or the Parole and Community Services Division to prepare and to insure timely conduct of the hearing.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000, 3053, 3056, 3057 and 3060, Penal Code; and *Morrissey v. Brewer* (1972) 408 U.S. 471. [End strikethrough]

Section 2641. [Begin strikethrough] Waiver of Hearing.

(a) Unconditional Waiver. A parolee may waive the revocation hearing. An unconditional waiver includes a waiver of any right to a personal appearance before the Board to contest the charges against the parolee, but shall not be an admission of guilt. Following an unconditional waiver, the Board may extend the period of parole up to the statutory maximum (see s 2515). The parolee may not later request a hearing, but may appeal the amount of time assessed by the Board.

(b) Optional Waiver. A parolee who is undergoing criminal prosecution may conditionally waive the revocation hearing, but retain the option to request a hearing as provided in this subsection. Upon receipt of a signed optional waiver, the Board at the central office calendar will determine whether there is good cause to revoke parole. This determination will be made without a hearing or personal appearance by the parolee. If the Board orders parole revoked and the parolee returned to custody, the parolee then may request a revocation hearing. A hearing request must be received by the Board no more than 15 days following sentencing or final disposition at the trial court level in the criminal proceedings and no later than two months before expiration of the revocation period ordered by the Board at the central office calendar. Upon receipt of a

hearing request, the Board shall schedule a revocation hearing. At the hearing the panel may take any appropriate action.

(c) ~~Revocation Hearing: Psychiatric Treatment.~~ A parolee who is scheduled for a revocation hearing for psychiatric treatment shall not be permitted to waive the revocation hearing.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000, 3053, 3056, 3057 and 3060, Penal Code. [End strikethrough]

Section 2642 [Begin strikethrough] ~~Prehearing Procedures.~~

The P&CSD hearing coordinator and the central office hearing coordinator shall assure that: time limits are met; the parolee is advised of his rights; the parolee's requests for witnesses are screened; any necessary witnesses are notified of the date, time and place of the hearing; all documentary and physical evidence is disclosed, unless designated confidential under **Section 2235**; requests for continuances are decided under **Section 2253**; necessary attorney representation is arranged; and the case is otherwise prepared for the hearing. [End strikethrough]

Section 2643 [Begin strikethrough] ~~Parolee Rights.~~

(a) ~~General.~~ At the revocation hearing the parolee shall have the rights specified in §§ 2245-2255. The record of the hearing shall be a tape recording.

(b) ~~Notification of the Charges and the Supporting Evidence.~~ The parolee and his attorney, if he has one, shall receive copies of the parole violation report, any supplemental reports, and any evidence supporting the parole violation charges unless designated confidential pursuant to departmental regulations (see § 2235). The parolee and his attorney shall receive copies of any police, arrest, or crime reports relevant to the parole violation charges. Any information which is confidential pursuant to the department rules shall not be disclosed, but the parolee and his attorney shall be notified that confidential information has been deleted from the report.

(c) ~~Attorney Representation.~~ The parolee is entitled to request the assistance of an attorney at any revocation hearing. If requested, an attorney determination shall be made pursuant to the procedures of Article 6 of this chapter. If the request for an attorney is granted, the parolee is entitled to retained counsel or appointed counsel if the parolee is indigent.

~~(d) Witnesses. The parolee is entitled to request the presence of evidentiary and/or dispositional witnesses at any revocation hearing. The witnesses shall be called unless the hearing panel has specific reason to deny the request. Witnesses shall be screened pursuant to the procedures of § 2668. The parolee may request subpoena(s) or subpoena(s) duces tecum as provided in §§ 2675-2682. If denied, the specific reasons for denial shall be documented and a copy of the document given to the parolee. During the hearing the parolee has the right, under the direction of the hearing panel, to question all witnesses.~~

~~(e) Notice of the Hearing. At any hearing where witnesses are approved or an attorney is granted, notice of the hearing shall be given as soon as possible but no later than four days before the hearing.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041, 3042, 3063.5, 3063.6, 5076.1 and 5076.3, Penal Code; Gagnon v. Scarpelli(1972) 411 U.S. 778. [End strikethrough]~~

Section 2644 [Begin strikethrough] Prerevocation Proceedings.

~~(a) General. Prerevocation hearings may be held when a parolee is suspected of a serious violation of parole within 30 days of discharge from parole, and the board at the central office calendar has not taken an action to extend the parole period pending the revocation hearing. A prerevocation hearing should be held when a parolee is suspected of a serious violation of parole within 30 days of the parolee's maximum discharge date and is in custody on a parole hold. At the prerevocation hearing the only issue to be decided by the panel is whether there is probable cause to believe the parolee has violated parole as charged. Mitigating circumstances are not at issue at this hearing unless they are so bound up in the offense itself that they cannot be considered separately.~~

~~(b) Initiating Prerevocation Proceedings. When a parole agent determines that a prerevocation hearing may be necessary under Section 2637(c)(4) the parole agent shall immediately prepare a report specifying the charges and supporting evidence, including the reasons for requesting a prerevocation hearing. If the district administrator recommends that a prerevocation hearing should be scheduled the procedures of Section 2636(d) shall be followed.~~

~~(c) Oath. At the hearing witnesses shall be required to testify under oath.~~

~~(d) Parolee Rights. At a prerevocation hearing the parolee shall have the rights provided in Section 2643.~~

~~(e) Decision. The hearing panel shall make any disposition appropriate to the facts of the case including the following:~~

~~(1) No Probable Cause Found. If the hearing panel finds no probable cause, the parolee shall be continued on parole. The parole hold shall be removed immediately after the hearing. A hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.~~

~~(2) Charge Dismissed. The charge may be dismissed if there is insufficient information to determine whether there is probable cause or if the interest of justice requires.~~

~~(3) Probable Cause Found. If the hearing panel determines that there is probable cause, the hearing panel shall order a revocation hearing scheduled. If the board at the central office calendar had vacated the parolee's early discharge date (Section 2637(c)(10)) the hearing panel shall set the period of parole at the statutory maximum.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3000, Penal Code. [End strikethrough]~~

Section 2645 [Begin strikethrough] Hearing Procedures: Revocation.

~~(a) General. At the revocation hearing the hearing panel shall decide whether there is good cause to believe a condition of parole has been violated and, if so, the most appropriate disposition. The parolee may offer mitigating circumstances either to the violation charged or to the disposition during the appropriate part of the hearing. If the facts of the violation charged have been settled against the parolee in a criminal prosecution or a probation revocation hearing, the parolee may not contest the facts settled against him but may contest: the fact of a post-parole conviction; whether the conviction violated a condition of parole (by law every conviction is a violation of parole); and whether the parolee suffered the conviction. If the facts against the parolee have not been settled in a criminal prosecution or probation revocation hearing, the parolee may contest the violation charged.~~

~~If the parolee is charged with failing to register under Penal Code section 290, the only factual issues at the revocation hearing are whether the parolee is required to register under Penal Code section 290 and whether the parolee failed to register.~~

~~(b) Oath. The hearing panel shall require all witnesses to testify under oath.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 290 (1979 Stats., Ch. 944), 3041, 3042, 3063.5, 3063.6, and 5076.1, Penal Code. [End strikethrough]

Section 2646 [Begin strikethrough] ~~Disposition.~~

~~The hearing panel shall make a disposition appropriate to the facts of the case including consideration for public safety. Parole involves conditional liberty and a parolee who engages in violation of the condition(s) of parole may not be capable of successful reintegration into society and may compromise public safety. Nothing in this section shall prevent the board from imposing any of the following disposition alternatives when the board or the department seek criminal prosecution for conduct constituting a violation of the law. Disposition alternatives include the following:~~

~~(a) No Violation Found. If the hearing panel finds that the parolee did not commit the violation charged, the parolee shall be continued on parole. If the board at the central office calendar had extended the parole period pending the revocation hearing, the panel shall discharge the parolee effective the date of the hearing.~~

~~(b) Charge Dismissed. The charge may be dismissed if there is insufficient information to determine whether the charge is true, if the charge will not significantly affect the disposition, or if the interest of justice would be served.~~

~~If all the charges are dismissed in the case of a parolee whose parole period had been extended pending the revocation hearing the panel shall discharge the parolee effective the date of the hearing.~~

~~(c) Violation Found. If the hearing panel determines that the parolee committed the violation charged, the hearing panel shall make the appropriate decision necessary to handle the violation. Examples of disposition are:~~

~~(1) Continue on Parole. This disposition shall be used when the violation is not sufficiently serious to warrant reimprisonment. The decision to continue on parole may be accompanied by a decision to modify, add, or delete special conditions of parole. This decision cannot be used in the case of a parolee whose parole period had been extended pending the revocation hearing.~~

~~(2) Local Program. This disposition shall be used when the violation is not sufficiently serious to warrant reimprisonment but does indicate a need for treatment available in a community facility or program. This decision cannot be used in the case of a parolee whose parole period had been extended pending the revocation hearing.~~

~~(3) Return to Custody. This disposition shall be used when the violation is so serious that reincarceration is necessary or when the violation is the failure to register in a timely manner as required by Penal Code Section 290 or the failure to provide samples of blood and saliva pursuant to Penal Code section 3060.5, as provided in Penal Code sections 295 through 300.3. Any time in custody under a parole hold will be directed to the revocation confinement period.~~

~~(4) Return to Custody: Eligible for Work Furlough. This disposition shall be used in the following circumstances:~~

~~(A) the violation is so serious that reincarceration is necessary; and~~

~~(B) the parolee will be retained in a local facility which will permit parolee participation in work furlough; and~~

~~(C) the panel finds that the parolee may be permitted to participate in work furlough.~~

~~(5) Refix Discharge Date. If the board at the central office calendar had vacated the parolee's early discharge date the hearing panel shall set the period of parole at the statutory maximum.~~

~~(6) Discharge. If the board at the central office calendar had extended the period of parole pending the revocation hearing and the panel determines the violation does not warrant reimprisonment, the panel shall discharge the parolee effective the date of the hearing.~~

~~(d) Return to Custody: Psychiatric Treatment. This disposition shall be used when the sole finding of the panel is that the parolee has engaged in conduct indicating that his mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior. This disposition shall only be used when the mental condition substantially impairs the parolee's ability to maintain himself or herself in the community and necessary treatment cannot be obtained in the community.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 290, 295-300.3, 3000, 3053, 3056, 3057, 3060 and 3060.5, Penal Code. [End strikethrough]~~

Section 2646.1 [Begin strikethrough] Violations and Length of Confinement.

~~The following are parole revocation assessment guidelines when good cause has been found on a single parole violation charge. The ranges represent the suggested period of confinement when a return to custody is imposed as a disposition for a violation of parole. The ranges are suggested for a parolee with no prior returns to custody. The assessment may be consecutive to or concurrent with other charges as long as the total period of confinement does not exceed the revocation period specified at § 2635.1. The~~

hearing panel may impose a period of confinement that is outside the assessment range if justified by the particular facts of the individual case and if the facts supporting the term are stated on the record. This section is declaratory of existing board policy and is not intended to modify the authority of an individual hearing panel or the interests of a prisoner subject to a parole revocation.

Type I Violations

Assessment Range

(a) Technical Violations of Parole

For parolees with a parole hold/discovery date on or after October 1, 2011:

0 to 60 days

For parolees with a parole hold/discovery date prior to October 1, 2011:

0 to 4 months

(1) Use of alcohol

(2) Failure to participate in testing for the presence of alcohol or any controlled substance, including marijuana

(3) Instructions: Changing employment without informing P&CSD

(4) Failure to inform P&CSD of criminal arrests

(5) Instructions: Leaving county of residence beyond 48 hours without P&CSD approval

(6) Instructions: Traveling beyond 50 miles from residence without P&CSD approval

(7) Failure to follow other instructions from P&CSD

(b) Controlled Substance Violations

For parolees with a parole hold/discovery date on or after October 1, 2011:

0 to 60 days

For parolees with a parole hold/discovery date prior to October 1, 2011:

0 to 4 months

(1) Use of a controlled substance, including marijuana

(2) Possession of marijuana (1 oz. or less)

(3) Under the influence of controlled substance, including marijuana

(4) Possession of controlled substance paraphernalia

(5) Presence in a place where a controlled substance is used, sold or given away

Type II Violations

Assessment Range

(c) Technical Violations of Parole

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

- ~~(1) Failure to attend Parole Outpatient Clinic~~
- ~~(2) Violations of other special conditions of parole~~
- ~~(3) Failure to report to P&CSD~~
- ~~(4) Absconding parole supervision~~
- ~~(5) Instructions: Changing residence without informing P&CSD~~
- ~~(6) Unauthorized possession of a knife with a blade exceeding two inches~~
- ~~(7) Access to a firearm~~
- ~~(8) Access to a deadly weapon~~
- ~~(9) Access to a simulated firearm~~
- ~~(10) Access to a stun gun or taser~~
- ~~(11) Access to a tear gas dispenser~~
- ~~(12) Access to a knife with a blade exceeding two inches~~
- ~~(13) Access to a crossbow~~
- ~~(14) Possession of ammunition~~
- ~~(15) Access to ammunition for a firearm~~

(d) Sex Offenses

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

- ~~(1) Consensual participation in oral copulation in a jail or prison~~
- ~~(2) Consensual participation in sodomy in a jail or prison~~
- ~~(3) Indecent exposure~~
- ~~(4) Pimping or pandering~~
- ~~(5) Prostitution~~
- ~~(6) Failure to register pursuant to Penal Code section 290~~
- ~~(7) Any other sex offense involving an adult victim where the offense is~~

Type II Violations

*Assessment
Range*

not accomplished against the victim's will

(e) Assault and Battery

For parolees with a parole hold/discovery date on or after October 1, 2011:

75 to 135 days

For parolees with a parole hold/discovery date prior to October 1, 2011:

5 to 9 months

(1) Assault

(2) Battery without injury

(f) Property Offenses

For parolees with a parole hold/discovery date on or after October 1, 2011:

75 to 135 days

For parolees with a parole hold/discovery date prior to October 1, 2011:

5 to 9 months

(1) Possession of burglary tools

(2) Tampering with an automobile

(3) Making, drawing, or delivering a check, draft or order with insufficient funds

(4) Operating a motor vehicle without owner's permission

(5) Petty theft

(6) Petty theft with a prior conviction or judicial/administrative adjudication

(7) Receiving or possession of stolen property

(8) Misappropriation of public money (less than \$400)

(g) Controlled Substance Violations

For parolees with a parole hold/discovery date on or after October 1, 2011:

75 to 135 days

For parolees with a parole hold/discovery date prior to October 1, 2011:

5 to 9 months

(1) Possession of a controlled substance

(2) Possession of marijuana (over 1 oz.)

(3) Sale of substance in lieu of a controlled substance, including marijuana

Type II Violations

*Assessment
Range*

~~(4) Forgery of a prescription~~

~~(h) Driving Violations~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

~~(1) First offense driving under influence of alcohol/drugs~~

~~(2) Reckless driving with no personal injury~~

~~(3) Hit and run causing property damage~~

~~(4) Driving with revoked or suspended license~~

~~(5) Any other misdemeanor driving violation not listed in this section~~

~~(i) Miscellaneous Crimes Against Others and Property~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

~~(1) Threats or harassment not constituting terrorist threats~~

~~(2) Contributing to the delinquency of a minor~~

~~(3) Destroying public property~~

~~(4) Resisting arrest with no prior convictions or judicial/administrative adjudications~~

~~(5) Trespassing~~

~~(6) Vandalism or malicious mischief~~

~~(7) Refusal to sign parole conditions (maximum 6 months per Penal Code section 3060.5)~~

~~(8) Illegal entry into the United States~~

~~(j) Miscellaneous Violations of Law~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

~~(1) Disturbing the peace~~

~~Type II Violations~~

*~~Assessment
Range~~*

- ~~(2) Drunk in public~~
- ~~(3) Failure to register pursuant to Health and Safety Code 11590~~
- ~~(4) Providing false identification to a peace officer~~
- ~~(5) Failure to participate in or complete a batterer's program~~
- ~~(6) Incitement to riot~~
- ~~(7) Destroy or damage a prison or jail in the amount of \$400 or less~~
- ~~(8) Any other felony that does not involve the use of force or violence or possession of a weapon~~
- ~~(9) Any other misdemeanor not listed in this section~~
- ~~(10) Any conspiracy to commit a Type II violation~~
- ~~(11) Any attempt to commit a Type II violation~~
- ~~(12) Any solicitation to commit a Type II violation~~
- ~~(13) Accessory to a Type II violation~~

~~Type III Violations~~

*~~Assessment
Range~~*

~~(k) Technical Violations of Parole~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) Association with persons prohibited by the board or P&CSD~~
- ~~(2) Being present in prohibited areas without permission~~
- ~~(3) Any violation of a condition involving gang participation or association~~

~~(l) Homicide~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) Murder~~
- ~~(2) Voluntary manslaughter~~

Type III Violations

*Assessment
Range*

(3) Involuntary manslaughter

~~(m) Robbery~~

For parolees with a parole hold/discovery date on or after October 1, 2011:

~~150 to 180
days~~

For parolees with a parole hold/discovery date prior to October 1, 2011:

~~10 to 12
months~~

~~(1) All armed robberies~~

~~(2) All unarmed robberies~~

~~(3) Carjacking~~

~~(n) Sexual Offenses—Major~~

For parolees with a parole hold/discovery date on or after October 1, 2011:

~~150 to 180
days~~

For parolees with a parole hold/discovery date prior to October 1, 2011:

~~10 to 12
months~~

~~(1) Rape~~

~~(2) Unlawful sexual intercourse or statutory rape~~

~~(3) Assault with intent to commit rape, sodomy, oral copulation, or mayhem~~

~~(4) Lewd and lascivious acts with a child under 14 years~~

~~(5) Oral copulation with a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(6) Sodomy with a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(7) Incest~~

~~(8) Annoying children in violation of Penal Code section 647.6~~

~~(9) Loitering around or within schools or playgrounds~~

~~(10) Penetration of the genital or anal openings by foreign object of a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(11) Sexual battery~~

~~(12) Indecent exposure with a prior conviction or judicial/administrative adjudication~~

Type III Violations

*Assessment
Range*

~~(13) Any other sexual offense involving minors not listed in this section~~

~~(14) Any other sexual offense against adult victims where the offense was accomplished against the victim's will not listed in this section~~

~~(o) Assault and Battery – Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) Assault with a deadly weapon~~

~~(2) Assault with a deadly weapon upon a peace officer~~

~~(3) Assault with a caustic substance~~

~~(4) Assault with the intent to commit murder~~

~~(5) Assault with force likely to produce great bodily injury~~

~~(6) Assault on a spouse or child~~

~~(7) Administration of poison~~

~~(8) Mayhem~~

~~(9) Battery upon a peace officer~~

~~(10) Battery upon a spouse or child~~

~~(11) Cruelty to a child~~

~~(12) Any other crime where bodily injury is inflicted not listed in this section~~

~~(13) Any other crime posing a major personal risk to the safety of others not listed in this section~~

~~(14) Drive-by shooting~~

~~(15) Threats to a Commissioner or Deputy Commissioner or their families~~

~~(p) Property Offenses – Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) First degree burglary~~

Type III Violations

*Assessment
Range*

- ~~(2) Second degree burglary~~
- ~~(3) Credit card theft or illegal use of a credit card~~
- ~~(4) Possession of counterfeit dies or plates~~
- ~~(5) Embezzlement~~
- ~~(6) Forgery~~
- ~~(7) Fraud~~
- ~~(8) Grand theft~~
- ~~(9) Grand theft automobile~~
- ~~(10) Extortion~~
- ~~(11) Misappropriation of public moneys (more than \$400)~~

~~(q) Alcohol and Controlled Substance Violations – Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) Sale or furnish a controlled substance, including marijuana, to a minor~~
- ~~(2) Sale of a controlled substance, including marijuana~~
- ~~(3) Possession of a controlled substance, including marijuana, for sale~~
- ~~(4) Manufacture of a controlled substance~~
- ~~(5) Bringing a controlled substance, including marijuana, into a jail or prison~~
- ~~(6) Use of a controlled substance, including marijuana, in a jail or prison~~
- ~~(7) Possession of a controlled substance, including marijuana, in a jail or prison~~
- ~~(8) Bringing alcohol into a jail or prison~~
- ~~(9) Use of alcohol in a jail or prison~~
- ~~(10) Possession of alcohol in a jail or prison~~

~~(r) Weapons Offenses~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12~~

Type III Violations

*Assessment
Range
months*

- ~~(1) Manufacture/sale of a deadly weapon (other than a firearm)~~
- ~~(2) Possession of a deadly weapon~~
- ~~(3) Use of a deadly weapon~~
- ~~(4) Use of a deadly weapon in the commission of a crime~~
- ~~(5) Possession of a firearm~~
- ~~(6) Possession of a simulated firearm~~
- ~~(7) Use of a firearm~~
- ~~(8) Bringing a deadly weapon or firearm into a jail or prison~~
- ~~(9) Possession or manufacture of a deadly weapon or explosive device in a jail or prison~~
- ~~(10) Possession of a concealable firearm~~
- ~~(11) Possession of any firearm with prior firearm conviction~~
- ~~(12) Possession of non-concealable firearm without prior use conviction~~
- ~~(13) Armed with a firearm in the commission of a felony~~
- ~~(14) Possession of a crossbow~~
- ~~(15) Possession of a stun gun or taser~~
- ~~(16) Possession of a tear gas gun or dispenser~~
- ~~(17) Use of a stun gun or taser~~
- ~~(18) Use of tear gas gun or dispenser~~
- ~~(19) Brandish a weapon (other than a firearm)~~
- ~~(20) Brandish a firearm~~
- ~~(21) Other offenses involving the use/possession of a firearm or deadly weapon~~
- ~~(22) Other weapons violations~~
- ~~(s) Driving Violations – Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) Driving under the influence of alcohol/drugs with a prior conviction or judicial/administrative adjudication~~
- ~~(2) Reckless driving in willful or wanton disregard for the safety of others~~
- ~~(3) Driving under the influence of alcohol/drugs causing injury~~

Type III Violations

*Assessment
Range*

~~(4) Vehicular manslaughter~~

~~(5) Any other felony driving violations not listed in this section~~

~~(t) Miscellaneous Major Crimes~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) Child stealing~~

~~(2) False imprisonment~~

~~(3) Hostage taking~~

~~(4) Kidnapping~~

~~(5) Arson of inhabited dwelling~~

~~(6) Arson of other structure or forest land~~

~~(7) Escape from a jail or prison without force~~

~~(8) Escape from a jail or prison with force~~

~~(9) Destroy or injure a jail or prison (more than \$400)~~

~~(10) Possession of caustic chemicals with intent to harm others~~

~~(11) Terrorist threats~~

~~(12) Stalking~~

~~(13) Commission of a serious felony as defined at Penal Code section 1192.7~~

~~(14) Commission of a violent felony as defined at Penal Code section 667.5~~

~~(15) Conspiracy to commit a Type III violation~~

~~(16) Attempt to commit a Type III violation~~

~~(17) Solicit another to commit a Type III violation~~

~~(18) Accessory to a Type III violation~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3056, 3057, 3060 and 3060.5, Penal Code. [End strikethrough]~~

Section 2647 [Begin strikethrough] Time in Custody.

~~In no case shall total time in custody before and after revocation proceedings exceed the revocation period specified in Section 2635.1.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3057 and 3060, Penal Code. [End strikethrough]~~

Section 2647.1 [Begin strikethrough] Time in Custody Psychiatric Treatment.

~~(a) If a parolee is ordered revoked and returned to custody, psychiatric treatment, the time in custody shall not be added to the parole period.~~

~~(b) If, during the revocation period, the parolee's condition changes so that he or she is no longer a person described in Section 2616(a)(14), department staff shall so certify and recommend release of the parolee to Central Office Calendar. The board at the Central Office Calendar shall take action on the recommendation within three working days of receipt of the recommendation.~~

~~(c) If the parolee is not being actively treated by the department in a psychiatric program or in a treatment program operated by the State Department of Mental Health, the department shall immediately submit the case to the Central Office Calendar with its recommendation.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3057 and 3060, Penal Code. [End strikethrough]~~

Section 2648 [Begin strikethrough] Posthearing Procedures.

~~(a) No Violation. If no violation is found, the parole hold shall be removed immediately after the hearing. The hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.~~

~~(b) Charges Dismissed. If the charges are dismissed, the parole hold shall be removed immediately after the hearing. The hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.~~

~~(c) Violation Found. If a parolee who is undergoing criminal prosecution is ordered returned to custody, the parolee shall be retained in local custody under a parole hold until termination of the prosecution. When the prosecution terminates the parolee shall be returned to prison or referred to the board at the central office calendar for modification of the revocation period if the revocation period is almost completed.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3057, Penal Code; Section 11150, Health and Safety Code. [End strikethrough]

Section 2649 [Begin strikethrough] Revoked Parolees with New Commitments.

(a) If a parolee who was on parole from a term other than a statutory term of life, is returned to prison as a revoked parolee with a new commitment, department staff shall calculate the revocation release date and the release date for the new commitment. Except as hereinafter provided if the release date for the new commitment is later than the revocation release date, department staff shall discharge the former term, effective upon the revocation release date.

(b) Department staff shall not discharge a term imposed for:

(1) a crime in which the prisoner used force or violence or caused serious bodily injury as defined in paragraph (5) of subdivision (f) of section 243 of the Penal Code within the meaning of subdivision (e) of Penal Code section 2962; or

(2) an offense resulting in ineligibility for credits against confinement pursuant to a revocation of parole set forth in paragraph (2)(C) of subdivision (d) of section 3057 of the Penal Code.

(c) If the revocation release date is later than the release date for the new commitment, department staff shall refer the case to the board on the miscellaneous proceedings calendar. The board shall determine whether to discharge the former term.

(d) If the parolee was on parole from a statutory term of life the case will be placed on the miscellaneous proceedings calendar upon receipt of a new commitment to state prison. The board shall determine whether to discharge the former term. In determining whether to discharge the former term, the board shall consider the length of the term for the new commitment, the likelihood that the parole from the previous term will extend past the parole on the new term and the seriousness of any other parole violation charges which did not result in a new term.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000 and 3057, Penal Code. [End strikethrough]

Section 2710 [Begin strikethrough] General.

The board may issue warrants ordering a parolee placed or retained in custody as provided in this article.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code. [End strikethrough]

Section 2711[Begin strikethrough] ~~Warrants Based on Board Action.~~

~~(a) Parole Suspended. When the Regional Administrator or the Interstate Unit submits a parole violation report charging that a parolee has absconded or otherwise violated the conditions of parole the board at the central office calendar may decide to order parole suspended. If parole is suspended, the board shall issue a warrant. The warrant shall be signed by a commissioner of the board.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3060, 5075 and 5076.1, Penal Code.[End strikethrough]

Section 2712 [Begin strikethrough] ~~Warrants Based on Individual Member Action.~~

~~(a) General. A member may order a parolee placed or retained in custody when the member has good cause to believe the parolee has absconded or otherwise violated the conditions of parole. This warrant may be issued without any prior board action suspending or revoking parole.~~

~~(b) Procedure. The member may issue the warrant and notify appropriate law enforcement agencies of the issuance. Immediately after issuing the warrant the member shall forward the warrant, the reasons or basis for its issuance and a list of law enforcement agencies notified, if any, to the Executive Officer.~~

~~(c) Central Office Procedure. Upon receipt of the warrant the Executive Officer shall immediately notify the Parole and Community Services Division of the warrant and the reasons for the issuance. P&CSD shall investigate the basis for the warrant and submit a parole violation report to the board at the central office calendar. The board at the central office calendar may determine to suspend parole and continue the warrant or may determine not to suspend parole. If parole is not suspended the board at the central office calendar shall notify the Executive Officer who shall recall the warrant as provided ins 2713. [End strikethrough]~~

Section 2714 [Begin strikethrough] ~~State and National Warrant Systems.~~

~~(a) California System. All warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be entered in the California warrant system (Wanted Persons System).~~

~~(b) National Warrant System.~~

~~(1) Criteria for Entering Warrant in National System. Warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be reviewed by the board at the central office calendar to determine if the warrant should be entered in the national warrant system (National Crime Information Center—"NCIC"). The factors to consider in determining whether to enter the warrant in NCIC include whether the parolee:~~

~~(A) Has a history of prior felony convictions for crimes of violence or for offenses involving weapons, great bodily injury, or sexual assaults;~~

~~(B) Is wanted by other state agencies;~~

~~(C) Was on parole from a term imposed for a violent crime or for multiple offenses;~~

~~(D) May remain on parole at least three months considering the amount of time his parole period can be extended;~~

~~(E) Was suspected of having committed other offenses at the time he absconded;~~

~~(F) Has family, employment, or residential ties with California;~~

~~(G) Is likely to have absconded to another state;~~

~~(H) Might be accepted for supervision in another state.~~

~~The board shall consider any other relevant information, including the expense of returning a parolee to California.~~

~~Whenever the board enters a warrant into the NCIC, the board's suspension order shall indicate the specific reasons the warrant has been entered in that system and include an action to return the parolee to California for revocation proceedings.~~

~~(2) Execution of Warrant. When the warrant is executed, the parolee shall be returned to California for revocation proceedings (see Chapter 6, Article 7) unless there are specific circumstances and substantial reasons that indicate a return would not be in the interests of justice.~~

~~(3) Purging Warrants. If the warrant has not been executed five years after entering it in the NCIC, the board shall review the case. If no other jurisdictions have issued warrants since the board issued its warrant, the board shall remove the warrant from the NCIC, unless reasons are stated for retaining the warrant.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code. [End strikethrough]~~

CHANGES WITHOUT REGULATORY EFFECT

Proposed additions are indicated by underline and deletions are indicated by ~~strikethrough~~.

TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PAROLE HEARINGS PRISON TERMS CHAPTER 6. PAROLE REVOCATION

[Begin ~~strikethrough~~] **Section ~~§ 2600~~**. General:

~~A parole agent may impose a parole hold only when the parole agent determines that the parolee falls within the criteria listed in Section 2601, and there is probable cause to believe the parolee has violated parole.~~

~~The hold decision must be made in every case regardless of the type of crime or parole violation with which the parolee is charged and regardless of whether another criminal justice agency is detaining the parolee.~~

~~A parole agent may place a parole hold on a parolee when he is already confined as the result of a new criminal charge or may arrest a parolee and place him in a local jail facility on a parole hold pending investigation of alleged parole violations.~~

~~The fact that a parolee has been released on bail or his own recognizance does not serve as a substitute for the parole agent's decision to place a hold. The board must consider the threat to the community. A case may be presented to the board at the central office calendar for a decision regarding the placement of a parole hold.~~

~~An absconder whose parole has been suspended and who has been subsequently apprehended, but who does not require the placement of a parole hold under one of the criteria listed in Section 2601 should be reported to the board at the central office calendar to be reinstated on parole pending further determination, and any outstanding warrants should be recalled.~~

~~The primary concern shall be for public safety.~~

~~Note: Authority cited: Section 3052, Penal Code. Reference: Sections 3000(b)(7) and 3060, Penal Code. [End ~~strikethrough~~]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3750. Penal Code section

3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2603 [Begin strikethrough]–Review of a Parole Hold.

~~(a) Initial Review. As soon as possible, but no later than 4 days after the placement of a parole hold, the parole agent must have a case conference with the unit supervisor to determine whether the parole hold should be continued.~~

~~(b) Replacing a Parole Hold. Once a parole hold is dropped, it should not be replaced unless new information has been received which indicates that the parolee falls within Section 2601. If the parole hold is replaced, the parolee shall be given the reasons in writing as provided in Section 2604.~~

~~(c) Later Removal of a Parole Hold. In appropriate cases, the district administrator may later remove a parole hold.~~

~~(d) Board Review. The board is authorized to order a parole hold placed, replaced, or removed at any time. The board decision regarding a parole hold is final. On a semi-annual basis the P&CSD shall provide the board information regarding the use of parole holds.~~ [End strikethrough]

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3753. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2604. ~~[Begin strikethrough] Reasons for Parole Hold.~~

~~In all cases, the parole agent must notify the parolee in writing of the reasons for the hold as soon as possible but no later than 7 days after placement of the parole hold. If the hold has been placed or replaced by the board, the board must notify the parolee in writing of the reasons for the hold. At the time the parolee is notified of the reasons for the parole hold P&CSD staff shall also notify the parolee of his right to appeal the decision and the procedure for filing the appeal. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3754. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2605. ~~[Begin strikethrough] Transfer to Prison.~~

~~Parolees on a parole hold only shall be retained in local custody pending a hearing.~~

~~(a) Medical Transfer. When a parolee presents a serious custodial risk and requires medical treatment necessitating hospitalization which cannot be provided locally because of lack of adequate detention facilities the parolee may be returned to prison upon written order of the judge of the superior court as provided in Penal Code section 4007.~~

~~(b) Emergency Transfer. A parolee may be returned to prison on an emergency basis if he cannot be physically retained in local custody pending a hearing, as certified in writing by the local detaining agency.~~

~~(c) Emergency Transfer: Psychiatric Treatment. A parolee may be returned to prison on an emergency basis if he is alleged to be an individual described in Section 2616(a)(14) and if he or she cannot receive necessary psychiatric treatment pending a hearing, as certified in writing by the Parole and Community Services Division.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3056, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3765. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2606. ~~[Begin strikethrough] Length of Parole Hold.~~

~~(a) Crimes Committed On or Before December 31, 1978. Unless otherwise provided by law and except as provided in subdivision (c), if the crime for which the parolee was committed to prison occurred on or before December 31, 1978, the parole hold shall not remain in effect for longer than six months.~~

~~(b) Crimes Committed On or After January 1, 1979. Unless otherwise provided by law and except as provided in subdivision (c), if the crime for which the parolee was committed to prison occurred on or after January 1, 1979, the parole hold shall not remain in effect for longer than one year.~~

~~(c) Parole Hold/Discovery Date On or After October 1, 2011. Unless otherwise provided by law, for all parolees with a parole hold/discovery date on or after October 1, 2011, the parole hold shall not remain in effect for longer than 180 days.~~

~~(d) Discovery Date. For purposes of this chapter, the discovery date is the date the parole supervising authority obtains knowledge that an alleged violation of parole has occurred.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3056, 3057 and 3060.5, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole

hearings is no longer tasked with parole revocations. This section is now covered by DAPO's regulations and can be found in 15 CCR 3756. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2615 [Begin strikethrough] ~~General.~~

~~The board is authorized to revoke parole in any case where the parolee has violated parole. Parole violations listed in s 2616(a) and (b) must be reported to the board. The P&CSD is authorized to dispose of any other parolee misconduct.~~

~~Note: Authority cited: Section 3052, Penal Code. Reference: Sections 3060 and 3063, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. This section is now covered by DAPO's regulations and can be found in 15 CCR 3750. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2616. [Begin strikethrough] ~~Reportable Information.~~

~~(a) Behavior Which Must Be Reported. The P&CSD shall report to the board any parolee who is reasonably believed to have engaged in the following kinds of behavior:~~

~~(1) Any conduct described in Penal Code section 667.5(c), or any conduct described in Penal Code section 1192.7(c), or any assaultive conduct resulting in serious injury to the victim.~~

~~(2) Possession, control, use of, or access to any firearms, explosive or crossbow or possession or use of any weapon as specified in subdivision (a) of California Penal Code section 12020, or any knife having a blade longer than two inches, except as provided in § 2512.~~

- ~~(3) Involvement in fraudulent schemes involving over \$1,000.~~
- ~~(4) Sale, transportation or distribution of any narcotic or other controlled substances as defined in division 10 of the California Health and Safety Code.~~
- ~~(5) A parolee whose whereabouts are unknown and has been unavailable for contact for thirty days.~~
- ~~(6) Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the P&CSD staff, including repetitive parole violations and escalating criminal conduct.~~
- ~~(7) The refusal to sign any form required by the Department of Justice explaining the duty of the person to register under Penal Code section 290.~~
- ~~(8) The failure to provide two blood specimens, a saliva sample, right thumb print impressions, and full palm print impressions of each hand as provided in Penal Code sections 295 through 300.3, requiring specified offenders to give samples before release.~~
- ~~(9) The failure to register as provided in Penal Code section 290, if the parolee is required to register.~~
- ~~(10) The failure to sign conditions of parole.~~
- ~~(11) Violation of the special condition prohibiting any active participation or assistance in, or promotion or furtherance of, prison gang, disruptive group, or criminal street gang activity, as enumerated in Penal Code section 186.22(c), if such condition was imposed.~~
- ~~(12) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group or criminal street gang, as defined in § 2513(c), or the wearing or displaying of any gang colors, signs, symbols, or paraphernalia associated with gang activity, if such condition was imposed.~~
- ~~(13) Violation of the special condition requiring compliance with any gang abatement injunction, ordinance, or court order, if such condition was imposed.~~
- ~~(14) Conduct indicating that the parolee's mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior.~~
- ~~(15) Violation of the residency restrictions set forth in Penal Code section 3003.5 for parolees required to register as provided in Penal Code section 290.~~
- ~~(b) In addition, for any parolee whose commitment offense is described in Penal Code section 1192.7(c), the P&CSD shall report to the board any such parolee who is reasonably believed to have engaged in the following kinds of behavior:~~
 - ~~(1) Any behavior listed in paragraph (a).~~
 - ~~(2) Any criminal conduct~~
 - ~~(3) Any violation of a condition to abstain from alcoholic beverages.~~

~~© Behavior Which May be Reported. Any conduct which the parole agent, unit supervisor or district administrator feels is sufficiently serious to report, regardless of whether the conduct is being prosecuted in court.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code; and Terhune v. Superior Court (Whitley) (1998) 65 Cal.App.4th 864. Reference: Sections 186.22, 290, 295-300.3, 3000, 3003.5, 3053, 3056, 3057, 3060 and 3060.5, Penal Code; and Sections 11561 and 11563, Health and Safety Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3760. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2617 [Begin strikethrough] ~~Investigation.~~

~~A parole agent shall investigate all cases of a parolee suspected of a parole violation. All available facts relating to the charged violation shall be documented. If the parolee is suspected of a violation which is being investigated as a new crime by a police agency, the parole agent should obtain a copy of the arresting agency's arrest and investigation report. If the parolee is suspected of a violation which is not being investigated as a new crime by a police agency, the parole agent should interview all persons who have knowledge of the conduct and record their statements. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Investigations of new violations are now covered by DAPO's regulations and can be found in 15 CCR 3761. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open

revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2618 [Begin strikethrough] ~~Parole Violation Report.~~

~~The parole violation report is a document prepared by the parole agent specifying the parole violation charges against a parolee, and containing or referring to the information known to the parole agent relevant to the charges. The parole violation report shall include a resume of the parolee's adjustment to community supervision. Any documents which relate to the parole violation shall be attached to the report or specifically identified in the report.~~

~~This database is current through 8/29/14 Register 2014, No. 35~~ [End strikethrough]

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. The parole violation report is now covered by DAPO's regulations and can be found in 15 CCR 3761.1 and 3762. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2619 [Begin strikethrough] ~~Supplemental Parole Violation Reports.~~

~~A supplemental parole violation report may be submitted to: report significant new information or evidence which tends to prove or disprove the violations previously charged; note court actions on charges which are being prosecuted in a criminal proceeding; expand, clarify or correct information in an earlier report; add or amend charges before a hearing is scheduled; provide the board with information not related to the violation, but which may affect the board's decision regarding the appropriate disposition; provide additional information to the board at any time requested by the board; or change the P&GSD recommendation. A copy of the supplemental parole violation report shall be given to the parolee within 4 days after the report has been submitted to the Board.~~

~~Note: Authority cited: Section 576.2, Penal Code. Reference: Sections 3052, 3053 and 3063, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Supplemental parole violation reports are now covered by DAPO's regulations and can be found in 15 CCR 3761.1 and 3762. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2620 [Begin strikethrough] Recommendations.

~~The P&CSD shall recommend the appropriate alternative necessary to deal with the violation charged. The primary concern shall be for the public safety. In a parole violation report the P&CSD may make the following recommendations:~~

~~(a) Continue on Parole. This recommendation may be used when the violation charged is not serious enough to warrant reimprisonment. A continue on parole recommendation may include a recommendation to delete, modify, or add special conditions of parole.~~

~~(b) Local Program. This recommendation may be used when the violation charged does not require reimprisonment of the parolee but does require treatment which can be obtained in a community facility or program.~~

~~© Schedule for Revocation Proceedings, Psychiatric Treatment. This recommendation shall be used only when a parolee's adjustment indicates the parolee may be suffering from a mental disorder which substantially impairs the parolee's ability to maintain himself or herself in the community, or which makes the parolee a danger to himself or herself or others, when necessary psychiatric treatment cannot be obtained in the community. The recommendation shall not be made when violations of another term or condition of parole are charged. When this recommendation is made a psychiatric report shall accompany the parole violation report and shall be made available to the hearing panel.~~

~~(d) Schedule for Revocation Proceedings. This recommendation may be used whenever the violation charged is so serious that reimprisonment is necessary whether or not the parolee is in need of medical or psychiatric treatment. This recommendation shall be used when a parolee who is required to register under Penal Code Section 290 fails to register within the time prescribed pursuant to Section 290(g) of the Penal Code. Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 290, 3000, 3053, 3056, 3057, and 3060, Penal Code; Sections 11561 and 1563, Health and Safety Code. [End strike through]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Recommendations are now covered by DAPO's regulations and can be found in 15 CCR 3764. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2635 [Begin strikethrough] General:

~~All revocation hearings should be held in the community near where the alleged violation occurred unless the parolee has been transferred to the department under Section 2605. The time limits of Section 2640 apply to all revocation hearings. Prerevocation hearings may be held as provided in Section 2644 [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3056 addresses where a parolee is housed while awaiting revocation proceedings and Penal Code section 3057 addresses the parole revocation time period. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2635.1 [Begin strikethrough] Revocation Period.

~~(a) General. Any period of confinement ordered pursuant to revocation of parole shall be added to the period of parole not to exceed the maximum period of parole specified in Section 2515. The revocation periods specified in this section apply if the parolee has not received a new commitment to prison.~~

~~(b) Crimes Committed On or Before December 31, 1978. Unless otherwise provided by law and except as provided in subdivision (d), if the crime for which the parolee was committed to prison occurred on or before December 31, 1978, confinement pursuant to parole revocation shall not exceed six months. Time in custody on a parole hold prior to the revocation hearing shall be credited to the revocation period.~~

~~(c) Crimes Committed On or After January 1, 1979. Unless otherwise provided by law and except as provided in subdivision (d), if the crime for which the parolee was committed to prison occurred on or after January 1, 1979, confinement pursuant to parole revocation shall not exceed one year. Time in custody on a parole hold shall be credited to the revocation period.~~

~~(d) Parole Hold/Discovery Date On or After October 1, 2011. Unless otherwise provided by law, for all parolees with a parole hold/discovery date on or after October 1, 2011, confinement pursuant to a parole revocation shall not exceed 180 days. Time in custody on a parole hold shall be credited to the revocation period.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. References: Sections 3056, 3057 and 3060.5, Penal Code.
35.4 [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3057 addresses parole revocation periods. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2636 [Begin strikethrough] P&CSD Review.

~~(a) Case Conference. After placement of a parole hold or discovery of information indicating a possible violation of parole, a case conference shall be held to determine if the violation shall be reported to the board as required by Section 2616. If the decision is that the violation must be reported to the board, the parole agent shall prepare a parole violation report.~~

~~(b) Unit Supervisor Review. After preparation of a parole violation report, the unit supervisor shall review the report and either concur with the recommendation made or make an alternative recommendation. The unit supervisor shall submit the report to the District Administrator.~~

~~© District Administrator Review. The District Administrator shall review the parole violation report and either concur with the recommendation made or make an alternative recommendation.~~

~~(d) Notification to Board. The violation report shall be forwarded to the board at the central office calendar if the district administrator recommends any action other than schedule for revocation proceedings, if the parolee is in suspended status, if the parolee has an imminent discharge date or if the case requires any action other than schedule for revocation proceedings.~~

~~If the district administrator recommends that the parolee be scheduled for a prerevocation or revocation hearing and the case does not require any board action prior to the hearing, the district administrator shall notify the board hearing coordinator of the date the parolee was paroled, the date the parole hold was placed, and the need for a revocation hearing. The hearing coordinator shall schedule a revocation hearing based on that information and recommendation.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section § 2638. [Begin strikethrough] P&CSD Hearing Coordinator.

~~The board at the central office calendar shall notify the P&CSD hearing coordinator of a decision to order a revocation hearing. The P&CSD hearing coordinator shall assure that all necessary prehearing procedures are followed including making an attorney determination under Chapter 6, Article 5 and screening witnesses under Chapter 6, Article 4. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2639. [Begin strikethrough] Central Office Hearing Coordinator.

~~The P&CSD hearing coordinator shall notify the central office hearing coordinator of the decision regarding an attorney and witnesses. The central office hearing coordinator shall schedule the hearing and assure that an attorney is appointed if necessary. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2640. [Begin strikethrough] Time Limits.

~~(a) General. The time limits specified in this section are intended to facilitate the timely completion of various segments of the revocation process in order to hold the revocation hearing within a reasonable time after the placement of the parole hold. These time limits are directory and do not affect the board's jurisdiction to hold a revocation hearing in the event of delay which does not prejudice the parolee. In any case in which the chief deputy commissioner determines that the time limits have been exceeded and the delay may prejudice the parolee, the board's Central Office Calendar shall act to complete the revocation hearing process without further delay or to dismiss the parole violation charges and remove the parole hold. These time limits shall be computed in calendar days. If a date falls on a weekend or holiday, the time limits shall be met on the next working day.~~

~~(b) Advice of Rights to Parolee.~~

~~(1) General. Upon notification that a revocation hearing has been ordered, the P&CSD hearing coordinator shall notify the parolee in writing of his rights within 24 days from the placement of the parole hold. In all cases the P&CSD hearing coordinator shall obtain a decision from the parolee regarding witnesses and an attorney within four days of serving the parolee with the notification of rights.~~

~~(c) Notification to Board. Within 23 days of the placement of the parole hold, the regional hearing coordinator shall notify the central office hearing coordinator that a revocation hearing should be scheduled, if that is the recommendation (see § 2636). If P&CSD does not recommend a revocation hearing the violation report shall be forwarded to the central office calendar within 23 days of placement of the hold.~~

~~(d) Central Office Hearing Coordinator. Upon notification of the decision regarding an attorney or witnesses, the central office hearing coordinator shall appoint an attorney, if necessary, and shall schedule the revocation hearing to be held as provided in subsection (f). The central office hearing coordinator shall notify the P&CSD hearing coordinator of the date and time of the hearing.~~

~~(e) Hearing. The revocation hearing shall be held within a reasonable time after the placement of the parole hold, unless the parolee waives the hearing pursuant to § 2641. The parole revocation hearing should be held within 45 days of the date the parole hold is placed.~~

~~(f) Revocation Hearing: Psychiatric Treatment. If the parole agent determines the parolee cannot be retained locally pending the revocation hearing due to acute psychosis, the parole agent may request authorization from the board at its Central Office Calendar for an emergency return pursuant to § 2605(c). Transfer of the parolee in no way eliminates the responsibility of the parole agent or the Parole and Community Services Division to prepare and to insure timely conduct of the hearing.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000, 3053, 3056, 3057 and 3060, Penal Code; and Morrissey v. Brewer(1972) 408 U.S. 471. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2641. [Begin strikethrough] ~~Waiver of Hearing.~~

~~(a) Unconditional Waiver. A parolee may waive the revocation hearing. An unconditional waiver includes a waiver of any right to a personal appearance before the Board to contest the charges against the parolee, but shall not be an admission of guilt.~~

~~Following an unconditional waiver, the Board may extend the period of parole up to the statutory maximum (see s 2515). The parolee may not later request a hearing, but may appeal the amount of time assessed by the Board.~~

~~(b) Optional Waiver. A parolee who is undergoing criminal prosecution may conditionally waive the revocation hearing, but retain the option to request a hearing as provided in this subsection. Upon receipt of a signed optional waiver, the Board at the central office calendar will determine whether there is good cause to revoke parole. This determination will be made without a hearing or personal appearance by the parolee. If the Board orders parole revoked and the parolee returned to custody, the parolee then may request a revocation hearing. A hearing request must be received by the Board no more than 15 days following sentencing or final disposition at the trial court~~

~~level in the criminal proceedings and no later than two months before expiration of the revocation period ordered by the Board at the central office calendar. Upon receipt of a hearing request, the Board shall schedule a revocation hearing. At the hearing the panel may take any appropriate action.~~

~~(c) Revocation Hearing: Psychiatric Treatment. A parolee who is scheduled for a revocation hearing for psychiatric treatment shall not be permitted to waive the revocation hearing.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000, 3053, 3056, 3057 and 3060, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2642 [Begin strikethrough] ~~Prehearing Procedures.~~

~~The P&CSD hearing coordinator and the central office hearing coordinator shall assure that: time limits are met; the parolee is advised of his rights; the parolee's requests for witnesses are screened; any necessary witnesses are notified of the date, time and place of the hearing; all documentary and physical evidence is disclosed, unless designated confidential under **Section 2235**; requests for continuances are decided under **Section 2253**; necessary attorney representation is arranged; and the case is otherwise prepared for the hearing. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not

materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2643 [Begin strikethrough] Parolee Rights.

~~(a) General. At the revocation hearing the parolee shall have the rights specified in §§ 2245-2255. The record of the hearing shall be a tape recording.~~

~~(b) Notification of the Charges and the Supporting Evidence. The parolee and his attorney, if he has one, shall receive copies of the parole violation report, any supplemental reports, and any evidence supporting the parole violation charges unless designated confidential pursuant to departmental regulations (see § 2235). The parolee and his attorney shall receive copies of any police, arrest, or crime reports relevant to the parole violation charges. Any information which is confidential pursuant to the department rules shall not be disclosed, but the parolee and his attorney shall be notified that confidential information has been deleted from the report.~~

~~(c) Attorney Representation. The parolee is entitled to request the assistance of an attorney at any revocation hearing. If requested, an attorney determination shall be made pursuant to the procedures of Article 6 of this chapter. If the request for an attorney is granted, the parolee is entitled to retained counsel or appointed counsel if the parolee is indigent.~~

~~(d) Witnesses. The parolee is entitled to request the presence of evidentiary and/or dispositional witnesses at any revocation hearing. The witnesses shall be called unless the hearing panel has specific reason to deny the request. Witnesses shall be screened pursuant to the procedures of § 2668. The parolee may request subpoena(s) or subpoena(s) duces tecum as provided in §§ 2675-2682. If denied, the specific reasons for denial shall be documented and a copy of the document given to the parolee. During the hearing the parolee has the right, under the direction of the hearing panel, to question all witnesses.~~

~~(e) Notice of the Hearing. At any hearing where witnesses are approved or an attorney is granted, notice of the hearing shall be given as soon as possible but no later than four days before the hearing.~~

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041, 3042, 3063.5, 3063.6, 5076.1 and 5076.3, Penal Code; Gagnon v. Scarpelli(1972) 411 U.S. 778. [End strikethrough]

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2644 [Begin strikethrough] ~~Prerevocation Proceedings.~~

~~(a) General. Prerevocation hearings may be held when a parolee is suspected of a serious violation of parole within 30 days of discharge from parole, and the board at the central office calendar has not taken an action to extend the parole period pending the revocation hearing. A prerevocation hearing should be held when a parolee is suspected of a serious violation of parole within 30 days of the parolee's maximum discharge date and is in custody on a parole hold. At the prerevocation hearing the only issue to be decided by the panel is whether there is probable cause to believe the parolee has violated parole as charged. Mitigating circumstances are not at issue at this hearing unless they are so bound up in the offense itself that they cannot be considered separately.~~

~~(b) Initiating Prerevocation Proceedings. When a parole agent determines that a prerevocation hearing may be necessary under Section 2637(c)(4) the parole agent shall immediately prepare a report specifying the charges and supporting evidence, including the reasons for requesting a prerevocation hearing. If the district administrator recommends that a prerevocation hearing should be scheduled the procedures of Section 2636(d) shall be followed.~~

~~(c) Oath. At the hearing witnesses shall be required to testify under oath.~~

~~(d) Parolee Rights. At a prerevocation hearing the parolee shall have the rights provided in Section 2643.~~

~~(e) Decision. The hearing panel shall make any disposition appropriate to the facts of the case including the following:~~

~~(1) No Probable Cause Found. If the hearing panel finds no probable cause, the parolee shall be continued on parole. The parole hold shall be removed immediately after the~~

hearing. A hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.

(2) Charge Dismissed. The charge may be dismissed if there is insufficient information to determine whether there is probable cause or if the interest of justice requires.

(3) Probable Cause Found. If the hearing panel determines that there is probable cause, the hearing panel shall order a revocation hearing scheduled. If the board at the central office calendar had vacated the parolee's early discharge date (Section 2637(c)(10)) the hearing panel shall set the period of parole at the statutory maximum.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3000, Penal Code. [End strikethrough]

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2645 [Begin strikethrough] ~~Hearing Procedures: Revocation.~~

(a) General. At the revocation hearing the hearing panel shall decide whether there is good cause to believe a condition of parole has been violated and, if so, the most appropriate disposition. The parolee may offer mitigating circumstances either to the violation charged or to the disposition during the appropriate part of the hearing. If the facts of the violation charged have been settled against the parolee in a criminal prosecution or a probation revocation hearing, the parolee may not contest the facts settled against him but may contest: the fact of a post-parole conviction; whether the conviction violated a condition of parole (by law every conviction is a violation of parole); and whether the parolee suffered the conviction. If the facts against the parolee have not been settled in a criminal prosecution or probation revocation hearing, the parolee may contest the violation charged.

~~If the parolee is charged with failing to register under Penal Code section 290, the only factual issues at the revocation hearing are whether the parolee is required to register under Penal Code section 290 and whether the parolee failed to register.~~

~~(b) Oath. The hearing panel shall require all witnesses to testify under oath.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 290 (1979 Stats., Ch. 944), 3041, 3042, 3063.5, 3063.6, and 5076.1, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2646 [Begin strikethrough] ~~Disposition.~~

~~The hearing panel shall make a disposition appropriate to the facts of the case including consideration for public safety. Parole involves conditional liberty and a parolee who engages in violation of the condition(s) of parole may not be capable of successful reintegration into society and may compromise public safety. Nothing in this section shall prevent the board from imposing any of the following disposition alternatives when the board or the department seek criminal prosecution for conduct constituting a violation of the law. Disposition alternatives include the following:~~

~~(a) No Violation Found. If the hearing panel finds that the parolee did not commit the violation charged, the parolee shall be continued on parole. If the board at the central office calendar had extended the parole period pending the revocation hearing, the panel shall discharge the parolee effective the date of the hearing.~~

~~(b) Charge Dismissed. The charge may be dismissed if there is insufficient information to determine whether the charge is true, if the charge will not significantly affect the disposition, or if the interest of justice would be served.~~

~~If all the charges are dismissed in the case of a parolee whose parole period had been extended pending the revocation hearing the panel shall discharge the parolee effective the date of the hearing.~~

~~(c) Violation Found. If the hearing panel determines that the parolee committed the violation charged, the hearing panel shall make the appropriate decision necessary to handle the violation. Examples of disposition are:~~

~~(1) Continue on Parole. This disposition shall be used when the violation is not sufficiently serious to warrant reimprisonment. The decision to continue on parole may be accompanied by a decision to modify, add, or delete special conditions of parole. This decision cannot be used in the case of a parolee whose parole period had been extended pending the revocation hearing.~~

~~(2) Local Program. This disposition shall be used when the violation is not sufficiently serious to warrant reimprisonment but does indicate a need for treatment available in a community facility or program. This decision cannot be used in the case of a parolee whose parole period had been extended pending the revocation hearing.~~

~~(3) Return to Custody. This disposition shall be used when the violation is so serious that reincarceration is necessary or when the violation is the failure to register in a timely manner as required by Penal Code Section 290 or the failure to provide samples of blood and saliva pursuant to Penal Code section 3060.5, as provided in Penal Code sections 295 through 300.3. Any time in custody under a parole hold will be directed to the revocation confinement period.~~

~~(4) Return to Custody: Eligible for Work Furlough. This disposition shall be used in the following circumstances:~~

~~(A) the violation is so serious that reincarceration is necessary; and~~

~~(B) the parolee will be retained in a local facility which will permit parolee participation in work furlough; and~~

~~(C) the panel finds that the parolee may be permitted to participate in work furlough.~~

~~(5) Refix Discharge Date. If the board at the central office calendar had vacated the parolee's early discharge date the hearing panel shall set the period of parole at the statutory maximum.~~

~~(6) Discharge. If the board at the central office calendar had extended the period of parole pending the revocation hearing and the panel determines the violation does not warrant reimprisonment, the panel shall discharge the parolee effective the date of the hearing.~~

~~(d) Return to Custody: Psychiatric Treatment. This disposition shall be used when the sole finding of the panel is that the parolee has engaged in conduct indicating that his~~

~~mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior. This disposition shall only be used when the mental condition substantially impairs the parolee's ability to maintain himself or herself in the community and necessary treatment cannot be obtained in the community.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 290, 295-300.3, 3000, 3053, 3056, 3057, 3060 and 3060.5, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2646.1 ~~[Begin strikethrough] Violations and Length of Confinement.~~

~~The following are parole revocation assessment guidelines when good cause has been found on a single parole violation charge. The ranges represent the suggested period of confinement when a return to custody is imposed as a disposition for a violation of parole. The ranges are suggested for a parolee with no prior returns to custody. The assessment may be consecutive to or concurrent with other charges as long as the total period of confinement does not exceed the revocation period specified at § 2635.1. The hearing panel may impose a period of confinement that is outside the assessment range if justified by the particular facts of the individual case and if the facts supporting the term are stated on the record. This section is declaratory of existing board policy and is not intended to modify the authority of an individual hearing panel or the interests of a prisoner subject to a parole revocation.~~

~~*Type I Violations*~~

Assessment Range

~~*(a) Technical Violations of Parole*~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

Type I Violations

Assessment Range

0 to 60 days

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

0 to 4 months

~~(1) Use of alcohol~~

~~(2) Failure to participate in testing for the presence of alcohol or any controlled substance, including marijuana~~

~~(3) Instructions: Changing employment without informing P&CSD~~

~~(4) Failure to inform P&CSD of criminal arrests~~

~~(5) Instructions: Leaving county of residence beyond 48 hours without P&CSD approval~~

~~(6) Instructions: Traveling beyond 50 miles from residence without P&CSD approval~~

~~(7) Failure to follow other instructions from P&CSD~~

(b) Controlled Substance Violations

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

0 to 60 days

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

0 to 4 months

~~(1) Use of a controlled substance, including marijuana~~

~~(2) Possession of marijuana (1 oz. or less)~~

~~(3) Under the influence of controlled substance, including marijuana~~

~~(4) Possession of controlled substance paraphernalia~~

~~(5) Presence in a place where a controlled substance is used, sold or given away~~

Type II Violations

Assessment Range

(c) Technical Violations of Parole

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

75 to 135 days

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

5 to 9 months

~~(1) Failure to attend Parole Outpatient Clinic~~

Type II Violations

*Assessment
Range*

- ~~(2) Violations of other special conditions of parole~~
- ~~(3) Failure to report to P&CSD~~
- ~~(4) Absconding parole supervision~~
- ~~(5) Instructions: Changing residence without informing P&CSD~~
- ~~(6) Unauthorized possession of a knife with a blade exceeding two inches~~
- ~~(7) Access to a firearm~~
- ~~(8) Access to a deadly weapon~~
- ~~(9) Access to a simulated firearm~~
- ~~(10) Access to a stun gun or taser~~
- ~~(11) Access to a tear gas dispenser~~
- ~~(12) Access to a knife with a blade exceeding two inches~~
- ~~(13) Access to a crossbow~~
- ~~(14) Possession of ammunition~~
- ~~(15) Access to ammunition for a firearm~~

~~(d) Sex Offenses~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

- ~~(1) Consensual participation in oral copulation in a jail or prison~~
- ~~(2) Consensual participation in sodomy in a jail or prison~~
- ~~(3) Indecent exposure~~
- ~~(4) Pimping or pandering~~
- ~~(5) Prostitution~~
- ~~(6) Failure to register pursuant to Penal Code section 290~~
- ~~(7) Any other sex offense involving an adult victim where the offense is not accomplished against the victim's will~~

~~(e) Assault and Battery~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

Type II Violations

*Assessment
Range*

(1) Assault

(2) Battery without injury

(f) Property Offenses

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

~~(1) Possession of burglary tools~~

~~(2) Tampering with an automobile~~

~~(3) Making, drawing, or delivering a check, draft or order with insufficient funds~~

~~(4) Operating a motor vehicle without owner's permission~~

~~(5) Petty theft~~

~~(6) Petty theft with a prior conviction or judicial/administrative adjudication~~

~~(7) Receiving or possession of stolen property~~

~~(8) Misappropriation of public money (less than \$400)~~

(g) Controlled Substance Violations

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

~~(1) Possession of a controlled substance~~

~~(2) Possession of marijuana (over 1 oz.)~~

~~(3) Sale of substance in lieu of a controlled substance, including marijuana~~

~~(4) Forgery of a prescription~~

(h) Driving Violations

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

Type II Violations

*Assessment
Range*

- ~~(1) First offense driving under influence of alcohol/drugs~~
- ~~(2) Reckless driving with no personal injury~~
- ~~(3) Hit and run causing property damage~~
- ~~(4) Driving with revoked or suspended license~~
- ~~(5) Any other misdemeanor driving violation not listed in this section~~
- ~~(i) Miscellaneous Crimes Against Others and Property~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

- ~~(1) Threats or harassment not constituting terrorist threats~~
- ~~(2) Contributing to the delinquency of a minor~~
- ~~(3) Destroying public property~~
- ~~(4) Resisting arrest with no prior convictions or judicial/administrative adjudications~~
- ~~(5) Trespassing~~
- ~~(6) Vandalism or malicious mischief~~
- ~~(7) Refusal to sign parole conditions (maximum 6 months per Penal Code section 3060.5)~~
- ~~(8) Illegal entry into the United States~~

~~(j) Miscellaneous Violations of Law~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~75 to 135 days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~5 to 9 months~~

- ~~(1) Disturbing the peace~~
- ~~(2) Drunk in public~~
- ~~(3) Failure to register pursuant to Health and Safety Code 11590~~
- ~~(4) Providing false identification to a peace officer~~
- ~~(5) Failure to participate in or complete a batterer's program~~
- ~~(6) Incitement to riot~~
- ~~(7) Destroy or damage a prison or jail in the amount of \$400 or less~~
- ~~(8) Any other felony that does not involve the use of force or violence~~

Type II Violations

*Assessment
Range*

or possession of a weapon

(9) Any other misdemeanor not listed in this section

(10) Any conspiracy to commit a Type II violation

(11) Any attempt to commit a Type II violation

(12) Any solicitation to commit a Type II violation

(13) Accessory to a Type II violation

Type III Violations

*Assessment
Range*

(k) Technical Violations of Parole

For parolees with a parole hold/discovery date on or after October 1, 2011:

*150 to 180
days*

For parolees with a parole hold/discovery date prior to October 1, 2011:

*10 to 12
months*

(1) Association with persons prohibited by the board or P&CSD

(2) Being present in prohibited areas without permission

(3) Any violation of a condition involving gang participation or association

(l) Homicide

For parolees with a parole hold/discovery date on or after October 1, 2011:

*150 to 180
days*

For parolees with a parole hold/discovery date prior to October 1, 2011:

*10 to 12
months*

(1) Murder

(2) Voluntary manslaughter

(3) Involuntary manslaughter

(m) Robbery

For parolees with a parole hold/discovery date on or after October 1, 2011:

*150 to 180
days*

For parolees with a parole hold/discovery date prior to October 1, 2011:

Type III Violations

*Assessment
Range*

~~10 to 12
months~~

~~(1) All armed robberies~~

~~(2) All unarmed robberies~~

~~(3) Carjacking~~

~~(n) Sexual Offenses—Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) Rape~~

~~(2) Unlawful sexual intercourse or statutory rape~~

~~(3) Assault with intent to commit rape, sodomy, oral copulation, or mayhem~~

~~(4) Lewd and lascivious acts with a child under 14 years~~

~~(5) Oral copulation with a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(6) Sodomy with a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(7) Incest~~

~~(8) Annoying children in violation of Penal Code section 647.6~~

~~(9) Loitering around or within schools or playgrounds~~

~~(10) Penetration of the genital or anal openings by foreign object of a minor or an adult victim where the offense was accomplished against the adult victim's will~~

~~(11) Sexual battery~~

~~(12) Indecent exposure with a prior conviction or judicial/administrative adjudication~~

~~(13) Any other sexual offense involving minors not listed in this section~~

~~(14) Any other sexual offense against adult victims where the offense was accomplished against the victim's will not listed in this section~~

~~(o) Assault and Battery—Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

Type III Violations

*Assessment
Range*

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) Assault with a deadly weapon~~
- ~~(2) Assault with a deadly weapon upon a peace officer~~
- ~~(3) Assault with a caustic substance~~
- ~~(4) Assault with the intent to commit murder~~
- ~~(5) Assault with force likely to produce great bodily injury~~
- ~~(6) Assault on a spouse or child~~
- ~~(7) Administration of poison~~
- ~~(8) Mayhem~~
- ~~(9) Battery upon a peace officer~~
- ~~(10) Battery upon a spouse or child~~
- ~~(11) Cruelty to a child~~
- ~~(12) Any other crime where bodily injury is inflicted not listed in this section~~
- ~~(13) Any other crime posing a major personal risk to the safety of others not listed in this section~~
- ~~(14) Drive-by shooting~~
- ~~(15) Threats to a Commissioner or Deputy Commissioner or their families~~

~~(p) Property Offenses—Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

- ~~(1) First degree burglary~~
- ~~(2) Second degree burglary~~
- ~~(3) Credit card theft or illegal use of a credit card~~
- ~~(4) Possession of counterfeit dies or plates~~
- ~~(5) Embezzlement~~
- ~~(6) Forgery~~
- ~~(7) Fraud~~
- ~~(8) Grand theft~~

Type III Violations

*Assessment
Range*

~~(9) Grand theft automobile~~

~~(10) Extortion~~

~~(11) Misappropriation of public moneys (more than \$400)~~

~~(q) Alcohol and Controlled Substance Violations – Major~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) Sale or furnish a controlled substance, including marijuana, to a minor~~

~~(2) Sale of a controlled substance, including marijuana~~

~~(3) Possession of a controlled substance, including marijuana, for sale~~

~~(4) Manufacture of a controlled substance~~

~~(5) Bringing a controlled substance, including marijuana, into a jail or prison~~

~~(6) Use of a controlled substance, including marijuana, in a jail or prison~~

~~(7) Possession of a controlled substance, including marijuana, in a jail or prison~~

~~(8) Bringing alcohol into a jail or prison~~

~~(9) Use of alcohol in a jail or prison~~

~~(10) Possession of alcohol in a jail or prison~~

~~(r) Weapons Offenses~~

~~For parolees with a parole hold/discovery date on or after October 1, 2011:~~

~~150 to 180
days~~

~~For parolees with a parole hold/discovery date prior to October 1, 2011:~~

~~10 to 12
months~~

~~(1) Manufacture/sale of a deadly weapon (other than a firearm)~~

~~(2) Possession of a deadly weapon~~

~~(3) Use of a deadly weapon~~

~~(4) Use of a deadly weapon in the commission of a crime~~

~~(5) Possession of a firearm~~

~~(6) Possession of a simulated firearm~~

Type III Violations

*Assessment
Range*

- (7) Use of a firearm
- (8) Bringing a deadly weapon or firearm into a jail or prison
- (9) Possession or manufacture of a deadly weapon or explosive device in a jail or prison
- (10) Possession of a concealable firearm
- (11) Possession of any firearm with prior firearm conviction
- (12) Possession of non-concealable firearm without prior use conviction
- (13) Armed with a firearm in the commission of a felony
- (14) Possession of a crossbow
- (15) Possession of a stun gun or taser
- (16) Possession of a tear gas gun or dispenser
- (17) Use of a stun gun or taser
- (18) Use of tear gas gun or dispenser
- (19) Brandish a weapon (other than a firearm)
- (20) Brandish a firearm
- (21) Other offenses involving the use/possession of a firearm or deadly weapon
- (22) Other weapons violations

(s) Driving Violations – Major

For parolees with a parole hold/discovery date on or after October 1, 2011:

*150 to 180
days*

For parolees with a parole hold/discovery date prior to October 1, 2011:

*10 to 12
months*

- (1) Driving under the influence of alcohol/drugs with a prior conviction or judicial/administrative adjudication
- (2) Reckless driving in willful or wanton disregard for the safety of others
- (3) Driving under the influence of alcohol/drugs causing injury
- (4) Vehicular manslaughter
- (5) Any other felony driving violations not listed in this section

(t) Miscellaneous Major Crimes

For parolees with a parole hold/discovery date on or after October 1, 2011:

*150 to 180
days*

For parolees with a parole hold/discovery date prior to October 1, 2011:

Type III Violations

*Assessment
Range
~~10 to 12
months~~*

- (1) Child stealing
- (2) False imprisonment
- (3) Hostage taking
- (4) Kidnapping
- (5) Arson of inhabited dwelling
- (6) Arson of other structure or forest land
- (7) Escape from a jail or prison without force
- (8) Escape from a jail or prison with force
- (9) Destroy or injure a jail or prison (more than \$400)
- (10) Possession of caustic chemicals with intent to harm others
- (11) Terrorist threats
- (12) Stalking
- (13) Commission of a serious felony as defined at Penal Code section 1192.7
- (14) Commission of a violent felony as defined at Penal Code section 667.5
- (15) Conspiracy to commit a Type III violation
- (16) Attempt to commit a Type III violation
- (17) Solicit another to commit a Type III violation
- (18) Accessory to a Type III violation

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3056, 3057, 3060 and 3060.5, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Revocation periods are described in Penal Code section 3056. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2647 [Begin strikethrough] Time in Custody.

~~In no case shall total time in custody before and after revocation proceedings exceed the revocation period specified in Section 2635.1.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3057 and 3060, Penal Code. [End strikethrough]~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Time in custody is addressed by Penal Code section 3057. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2647.1 [Begin strikethrough] Time in Custody Psychiatric Treatment.

~~(a) If a parolee is ordered revoked and returned to custody, psychiatric treatment, the time in custody shall not be added to the parole period.~~

~~(b) If, during the revocation period, the parolee's condition changes so that he or she is no longer a person described in Section 2616(a)(14), department staff shall so certify and recommend release of the parolee to Central Office Calendar. The board at the Central Office Calendar shall take action on the recommendation within three working days of receipt of the recommendation.~~

~~(c) If the parolee is not being actively treated by the department in a psychiatric program or in a treatment program operated by the State Department of Mental Health, the department shall immediately submit the case to the Central Office Calendar with its recommendation.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3057 and 3060, Penal Code.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2648 ~~Posthearing Procedures.~~

~~(a) No Violation. If no violation is found, the parole hold shall be removed immediately after the hearing. The hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.~~

~~(b) Charges Dismissed. If the charges are dismissed, the parole hold shall be removed immediately after the hearing. The hold may be retained until the end of the next working day after the hearing if the panel approves the retention and states its reasons.~~

~~(c) Violation Found. If a parolee who is undergoing criminal prosecution is ordered returned to custody, the parolee shall be retained in local custody under a parole hold until termination of the prosecution. When the prosecution terminates the parolee shall be returned to prison or referred to the board at the central office calendar for modification of the revocation period if the revocation period is almost completed.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3057, Penal Code; Section 11150, Health and Safety Code.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the Board of Parole hearings is no longer tasked with parole revocations. Penal Code section 3000.08 gave Board of Parole Hearings jurisdiction for cases prior to July 1, 2013 and those that are reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 2649 Revoked Parolees with New Commitments.

~~(a) If a parolee who was on parole from a term other than a statutory term of life, is returned to prison as a revoked parolee with a new commitment, department staff shall calculate the revocation release date and the release date for the new commitment. Except as hereinafter provided if the release date for the new commitment is later than the revocation release date, department staff shall discharge the former term, effective upon the revocation release date.~~

~~(b) Department staff shall not discharge a term imposed for:~~

~~(1) a crime in which the prisoner used force or violence or caused serious bodily injury as defined in paragraph (5) of subdivision (f) of section 243 of the Penal Code within the meaning of subdivision (e) of Penal Code section 2962; or~~

~~(2) an offense resulting in ineligibility for credits against confinement pursuant to a revocation of parole set forth in paragraph (2)(C) of subdivision (d) of section 3057 of the Penal Code.~~

~~(c) If the revocation release date is later than the release date for the new commitment, department staff shall refer the case to the board on the miscellaneous proceedings calendar. The board shall determine whether to discharge the former term.~~

~~(d) If the parolee was on parole from a statutory term of life the case will be placed on the miscellaneous proceedings calendar upon receipt of a new commitment to state prison. The board shall determine whether to discharge the former term. In determining whether to discharge the former term, the board shall consider the length of the term for the new commitment, the likelihood that the parole from the previous term will extend past the parole on the new term and the seriousness of any other parole violation charges which did not result in a new term.~~

~~Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3000 and 3057, Penal Code.~~

Section 2710 General.

~~The board may issue warrants ordering a parolee placed or retained in custody as provided in this article.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section, which amended Penal Code section 3000(b)(9)(A). Penal Code section 3000 indicates “the sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the court.” The Board of Parole Hearings is no longer tasked with issuing warrants. Warrants are now covered by DAPO’s regulations and can be found in 15 CCR 3766. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

~~Section 2711 Warrants Based on Board Action:~~

~~(a) Parole Suspended. When the Regional Administrator or the Interstate Unit submits a parole violation report charging that a parolee has absconded or otherwise violated the conditions of parole the board at the central office calendar may decide to order parole suspended. If parole is suspended, the board shall issue a warrant. The warrant shall be signed by a commissioner of the board.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3060, 5075 and 5076.1, Penal Code.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section, which amended Penal Code section 3000(b)(9)(A). The Board of Parole Hearings is no longer tasked with issuing warrants. Warrants are now covered by DAPO’s regulations and can be found in 15 CCR 3766. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

~~Section 2712 Warrants Based on Individual Member Action:~~

~~(a) General. A member may order a parolee placed or retained in custody when the member has good cause to believe the parolee has absconded or otherwise violated~~

~~the conditions of parole. This warrant may be issued without any prior board action suspending or revoking parole.~~

~~(b) Procedure. The member may issue the warrant and notify appropriate law enforcement agencies of the issuance. Immediately after issuing the warrant the member shall forward the warrant, the reasons or basis for its issuance and a list of law enforcement agencies notified, if any, to the Executive Officer.~~

~~(c) Central Office Procedure. Upon receipt of the warrant the Executive Officer shall immediately notify the Parole and Community Services Division of the warrant and the reasons for the issuance. P&CSD shall investigate the basis for the warrant and submit a parole violation report to the board at the central office calendar. The board at the central office calendar may determine to suspend parole and continue the warrant or may determine not to suspend parole. If parole is not suspended the board at the central office calendar shall notify the Executive Officer who shall recall the warrant as provided ins 2713.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section, which amended Penal Code section 3000(b)(9)(A). The Board of Parole Hearings is no longer tasked with issuing warrants. Warrants are now covered by DAPO's regulations and can be found in 15 CCR 3766. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

~~Section 2714 State and National Warrant Systems.~~

~~(a) California System. All warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be entered in the California warrant system (Wanted Persons System).~~

~~(b) National Warrant System.~~

~~(1) Criteria for Entering Warrant in National System. Warrants issued pursuant to §§ 2711 and 2712 for parolees whose whereabouts are unknown shall be reviewed by the board at the central office calendar to determine if the warrant should be entered in the national warrant system (National Crime Information Center – "NCIC"). The factors to consider in determining whether to enter the warrant in NCIC include whether the parolee:~~

- ~~(A) Has a history of prior felony convictions for crimes of violence or for offenses involving weapons, great bodily injury, or sexual assaults;~~
- ~~(B) Is wanted by other state agencies;~~
- ~~(C) Was on parole from a term imposed for a violent crime or for multiple offenses;~~
- ~~(D) May remain on parole at least three months considering the amount of time his parole period can be extended;~~
- ~~(E) Was suspected of having committed other offenses at the time he absconded;~~
- ~~(F) Has family, employment, or residential ties with California;~~
- ~~(G) Is likely to have absconded to another state;~~
- ~~(H) Might be accepted for supervision in another state.~~

~~The board shall consider any other relevant information, including the expense of returning a parolee to California.~~

~~Whenever the board enters a warrant into the NCIC, the board's suspension order shall indicate the specific reasons the warrant has been entered in that system and include an action to return the parolee to California for revocation proceedings.~~

~~(2) Execution of Warrant. When the warrant is executed, the parolee shall be returned to California for revocation proceedings (see Chapter 6, Article 7) unless there are specific circumstances and substantial reasons that indicate a return would not be in the interests of justice.~~

~~(3) Purging Warrants. If the warrant has not been executed five years after entering it in the NCIC, the board shall review the case. If no other jurisdictions have issued warrants since the board issued its warrant, the board shall remove the warrant from the NCIC, unless reasons are stated for retaining the warrant.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3060, Penal Code.~~

Explanation: Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section, which amended Penal Code section 3000(b)(9)(A). The Board of Parole Hearings is no longer tasked with issuing warrants. Warrants are now covered by DAPO's regulations and can be found in 15 CCR 3766. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

BOARD OF PAROLE HEARINGS
CHANGES WITHOUT REGULATORY EFFECT

SUPPLEMENTAL FILING FOR
Regulatory Action Number: 2014-1014-04N

1. Explanation of Why No Parolees Remain with Open Cases under the Board of Parole Hearings' Jurisdiction and Why Cases Cannot be Reopened

Several legislative reforms to California's parole system, collectively referred to as "Criminal Justice Realignment," revised state law to divert the majority of non-serious, non-violent offenders to incarceration and post-release supervision at a local level (Assembly Bill 109 (approved by Governor, April 4, 2011 (2011-2012 Reg. Sess.)), as modified by Assembly Bill 117 (approved by Governor, June 30, 2011 (2011-2012 Reg. Sess.)), Assembly Bill 116 (approved by Governor, July 27, 2011 (2011-2012 Reg. Sess.)), Assembly Bill 17X (approved by Governor, September 20, 2011 (2011-2012 1st Ex. Sess.)), and Senate Bill 1023 (approved by Governor, June 27, 2012 (2011-2012 Reg. Sess.))). After implementing the final stage on July 1, 2013, superior courts assumed authority for adjudicating all parole revocation proceedings pursuant to Penal Code sections 3000.08 and 3056.

The board no longer had authority to adjudicate revocation proceedings after July 1, 2013, unless the parolee had previously exercised an "optional waiver." Prior to the enactment of the final stage of Criminal Justice Realignment, parolees had the option under 15 CCR § 2641(b) to request an "optional waiver," in which the parolee would "conditionally waive the revocation hearing, but retain the option to request a hearing as provided in this subsection." Under 15 CCR § 2606, the parole hold following a request for optional waiver was limited to either six months or one year, depending on when the crime occurred. The last parolee whose revocation was under the board's jurisdiction was adjudicated on August 10, 2013, following such a hold. Even if that person had taken an optional waiver at that time, this waiver would have already expired. Because we have no other parolees in our system who fall under the board's jurisdiction, it is no longer possible for any parolees to activate an optional waiver. Without the optional waiver, it is not possible to reopen any cases. All current parolees who commit any crimes are now under the jurisdiction of the superior courts (following criminal justice realignment), which means that additional cases also cannot be opened by the board. Additionally, all parolees for whom the board previously revoked parole are now treated as inmates under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR). This means that the parole revocation procedures would no longer be relevant because the inmate would be subject to the normal rules and requirements for parole and, if the person violates parole again in the future, the person would be subject to the jurisdiction of the superior courts. Consequently, as part of this filing, the board also seeks to remove sections 2606 and 2641.

2. Explanation of Regulations relating to Parole Revocation Not Included in the Section 100 Filing

A. Section 2600.1. Sexually Violent Predator Screening, Holds, and Board Determinations.

This section pertains to the board's involvement in the screening of inmates determined by CDCR to be sexually violent predators under Welfare and Institutions Code section 6601(b). Because the board still has a statutory obligation, this regulation cannot be removed without regulatory effect.

B. Section 2602. Factors Considered

This section pertains to the factors for consideration in placing a parole hold. While most of the factors are moot, factors (a), (m), and (n) specifically refer to board considerations still in use during sexually violent predator screenings. Because the board still has a statutory obligation with respect to sexually violent predators, this regulation cannot be removed without regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

C. Section 2616.1. Reportable Information for Sex Offenders Undergoing Chemical Treatment

This section refers to sex offender chemical hormone treatment under Penal Code section 645. Under Penal Code section 645(a) and (b), Chemical hormone treatment may be required as a condition of parole for certain sex offenders. While the board no longer has jurisdiction over parolees, this section impacts CDCR's requirement to report violations of this parole requirement to the board. Thus, the deletion of this section would have regulatory effect. The board is reviewing this regulation for removal under the administrative procedures act.

D. Section 2637. Central Office Calendar

While this section contains some references to scheduling of revocation hearings over which the board no longer has jurisdiction, one requirement within this section refers to scheduling requirements still being utilized. Specifically, paragraph (b)(11) refers to the board's review to vacate an early discharge date. Additionally, the board is analyzing whether its petition to advance process falls under this regulation. Thus, the removal of this regulation appears to have regulatory effect at this time. The board is reviewing this regulation for update under the administrative procedures act.

E. Section 2713. Recall of Warrant

California Code of Regulations, Title 15, Division 2, Chapter 6, Article 7 (Warrants of Arrest) contains the board's prior procedures for issuing warrants. All other sections in this article were included in the board's section 100 filing. Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000(b)(9)(A), the board is no longer tasked with issuing warrants. Warrants are instead now covered by DAPO's regulations and can be found in 15 CCR 3766. However, the board does retain authority to recall warrants previously issued by the board. Thus, the deletion of this section would have regulatory effect.

F. Article 4. Evidence

This article governs evidence in parole postponement, rescission, and revocation hearings. While the board no longer has jurisdiction over parole postponement or revocation proceedings, the board still retains authority over rescission hearings. Thus, the deletion of this section would presently have regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

G. Article 5. Subpoenas

This article governs subpoenas in rescission and parole revocation hearings. While the board no longer has jurisdiction over parole revocation proceedings, the board still retains authority over rescission hearings. Thus, the deletion of this section would presently have regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

H. Article 6. Attorney Determinations

This article governs the appointment of inmate attorneys in rescission and parole revocation hearings. While the board no longer has jurisdiction over parole revocation proceedings, the board still retains authority over rescission hearings. Thus, the deletion of this section would presently have regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

I. Article 8. Multijurisdiction Regulations

This article contains regulations governing parole procedures for California inmates located in different states or under county or other jurisdiction. While they do reference parole revocation, these regulations also apply to parole discharge, sexually violent predators, and parolees subject to Penal Code section 3000.1 proceedings, with which the board is still involved. Thus, the deletion of this section would presently have

regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

J. Article 9. Parole Revocation Extension Procedures

This article refers to procedures for extending a revocation period. While the board no longer has jurisdiction over traditional parole revocation extension, the board is in the process of reviewing these regulations to determine whether they have any impact on the board's continuing jurisdiction over Penal Code section 3000.1 proceedings. Under Criminal Justice Realignment, the board retained authority to determine suitability for certain life inmates returned to custody on parole revocation by a superior court, which has the effect of extending a revocation period. (See proposed regulation language for OAL Notice File Number Z-2014-1028-01 for 15 CCR § 2275 updating the board's regulation on Penal Code section 3000.1 Proceedings.) The board is reviewing this regulation for possible removal under the administrative procedures act.

K. Article 10. Worktime Credits

This article refers to the granting of worktime credits earned by parolees returned to custody. While the board no longer has jurisdiction over parole revocation, Penal Code section 2932(d) still authorizes the board to "affirm, reverse, or modify [CDCR's] decision or grant a hearing before the board" regarding time-credit loss. Thus, the deletion of this section would presently have regulatory effect. The board is reviewing this regulation for update under the administrative procedures act.

3. Explanation of Why the Removal of California Code of Regulations, Title 15, section 2649 Would Have No Regulatory Effect

Pursuant to the criminal justice realignment, 2011 Cal. Legis. Serv. Ch. 15 (AB 109), 2012 Cal. Legis. Serv. Ch. 12 (AB 17), and 2012 Cal. Legis. Serv. Ch. 43 (SB 1023), which amended Penal Code section 3000.08, the board is no longer tasked with parole revocations. Penal Code section 3000.08 gave the Board of Parole Hearings jurisdiction for cases prior to July 1, 2013, and those that were reopened; however, there are no inmates who have an open revocation cases and none of these cases can be reopened. Therefore, repealing this regulation does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.