

	<p>Department of Corrections and Rehabilitation</p> <p>NOTICE OF CHANGE TO REGULATIONS</p> <p>Section: 3000, 3023, 3043.8, 3044, 3084.9, 3269, 3334, 3335, 3337, 3341-3341.3, 3341.5, 3341.6, 3341.8, 3341.9, 3375-3375.2, 3376, 3376.1, and 3378-3378.10</p>	<p>Number: 18-01</p>
		<p>Publication Date: January 19, 2018</p>
		<p>Effective Date: 10/09/17</p>

INSTITUTION POSTING REQUIRED

This Notice announces the amendment of several sections of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR provisions concerning Security Threat Group Management.

IMPLEMENTATION: Immediate.

PUBLIC COMMENT PERIOD

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to RPMB@cdcr.ca.gov. All written comments must be received by the **close of the public comment period March 16, 2018 at 5:00 p.m.**

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held **March 16, 2018 from 10:00 a.m. to 11:00 a.m. in the Kern/Colorado Room, located at 1515 S Street, North Building, Sacramento CA 95811.** The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or e-mail comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

POSTING

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

CONTACT PERSON

Inquiries regarding this notice should be directed to Timothy M. Lockwood, Associate Director, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2269 or e-mail at RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations may be directed to Juan Jacquez, Division of Adult Institutions, at (916) 324-0794, or Nancy Hardy, Division of Adult Institutions, at (916) 324-0791.

/ Original signed by /

RALPH M. DIAZ
Undersecretary, Operations

Attachments

NOTICE OF PROPOSED REGULATORY ACTION

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, proposes to adopt Sections 3378.9 and 3378.10; amend 3000, 3023, 3043.8, 3044, 3084.9, 3269, 3335, 3337, 3341, 3341.2, 3341.3, 3341.5, 3341.6, 3341.8, 3341.9, 3375, 3375.1, 3375.2, 3376, 3376.1, 3378, 3378.1, 3378.2, 3378.3, 3378.4, 3378.5, 3378.6, 3378.7, 3378.8; and repeal Section 3334 of the California Code of Regulations (CCR), Title 15, Division 3, concerning Security Threat Group Management.

PUBLIC HEARING:

Date and Time: **March 16, 2018 – 10:00 a.m. to 11:00 a.m.**
Place: Department of Corrections and Rehabilitation
Colorado Room
1515 S Street – North Building
Sacramento, CA 95811
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **March 16, 2018 at 5:00 p.m.** Any person may submit public comments in writing (by mail or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

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

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

**Anthony Carter
Regulation and Policy Management Branch
Telephone (916) 445-2220**

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

**Juan Jacquez
Division of Adult Institutions
Department of Corrections and Rehabilitation
(916) 324-0794**

Or

Nancy Hardy
Division of Adult Institutions
Department of Corrections and Rehabilitation
(916) 324-0791

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

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

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

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

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

This action amends various sections 3190 of the CCR, Title 15, Division 3 concerning Security Threat Group Management.

A class action lawsuit, *Ashker v. Governor of the State of California*, was filed on December 9, 2009. It alleged that CDCR's gang management regulations and practices violate the Due Process Clause of the Fourteenth Amendment and that the conditions of confinement in Pelican Bay's SHU constitute cruel and unusual punishment in violation of the Eighth Amendment. While the litigation was pending, the Department recognized a need to evaluate those strategies and in 2012 adopted new approaches to addressing constantly evolving Security Threat Group (STG) trends.

This 2012 pilot program and 2014 regulations introduced a comprehensive strategy designed to:

- Provide graduated housing with increased program and privileges based on positive programming, as well as consequences for non-compliance associated with STG related behaviors.
- Enable an offender to engage in reintegration from a SHU environment back to general population or sensitive needs yard through a Step Down Program.
- Support and educate offenders desiring to disavow and/or disengage from the STG lifestyle.
- Prevent or reduce STG influence and STG violence.
- Provide additional levels of due process in the validation process.
- Promote safe and efficient prison operations.
- Weaken the organization and communication of the STG through intelligence and behavior based management strategies.
- Curtail the ability of STGs to participate in crimes that transcend the boundaries of the institution into the community.
- Provide programs designed to promote social values and behaviors in preparation for the offenders' return to the community.

The 2012 policy changes included an enhanced intelligence-based identification system needed to identify members, associates, and suspects who were believed to present a clear threat to the safety of staff, offenders, and the security of the institutions. This, in association with documented STG related behavior, provided prison managers the necessary information to make decisions regarding the appropriate housing and program needs for the offender. The 2012 policy supported CDCR's strategic plan through effective classification of offenders and placement of the right offender, in the right program, at the right time.

The policy changes were based on recommendations made by subject matter experts within the CDCR as well as consideration of strategies and best practices used by agencies outside of California. This complex retooling of CDCR's STG management strategy required significant changes to regulations, practices, and institutional culture to ensure success. The 2012 policy supported California's efforts toward establishing an updated model for managing STGs in a prison environment.

A Settlement Agreement resolving the *Ashker* litigation was reached in September 2015. As set forth in the settlement agreement, CDCR agreed to promulgate regulations, policies, and procedures governing STG management and the Step Down Program. This regulation package is being submitted to comply with the federally approved Settlement Agreement.

This action also revises the following 3 forms that are incorporated by reference:

- CDCR Form 128-B4 (10/17), Evidence Disclosure and Interview Notification
- CDCR Form 128-B5 (10/17), Security Threat Group Validation Chrono
- CDCR Form 128-B8 (10/17), Security Threat Group Certification Worksheet

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates that these regulations will bring the Department into compliance with the *Ashker v. State of California* settlement agreement to address and settle claims for declaratory and injunctive relief regarding policies and practices of the CDCR for placing, housing, managing, and retaining inmates validated as prison gang members and associates in the SHU, as well as the conditions of confinement in the SHU at Pelican Bay State Prison and other CDCR SHU facilities.

EVALUATION OF CONSISTENCY / COMPATIBILITY WITH EXISTING REGULATIONS:

The Department has determined that these proposed regulations are consistent and compatible with existing state laws and regulations. The Department reached this conclusion because these proposed regulations supplement existing regulations concerning Security Threat Group Management, which is authorized by law.

LOCAL MANDATES:

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

FISCAL IMPACT STATEMENT:

- | | |
|--|-------------|
| • Cost to any local agency or school district that is required to be reimbursed: | <i>None</i> |
| • Cost or savings to any state agency: | <i>None</i> |
| • Other nondiscretionary cost or savings imposed on local agencies: | <i>None</i> |
| • Cost or savings in federal funding to the state: | <i>None</i> |

EFFECT ON HOUSING COSTS:

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no effect on the health of California residents or the state's environment, because the proposed regulations relate strictly to the management of CDCR institutions.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

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

EFFECT ON SMALL BUSINESSES:

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

CONSIDERATION OF ALTERNATIVES:

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

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

TEXT OF PROPOSED REGULATIONS

In the following text, strikethrough indicates deleted text; underline indicates added or amended text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Table of Contents is amended to read:

§ 3023. Security Threat Group (STG) Activity Behavior.

§ 3378.7. Debrief Processing Unit.

§ ~~3378.78~~. Transitional Housing Unit.

§ 3378.9. Restricted Custody General Population.

§ ~~3378.810~~. Termination of Security Threat Group (STG) Validation Status.

Chapter 1 Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

§ 3000 Definitions.

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

Administrative Security Housing Unit (SHU) Term means a determination of the need for retention of any inmate by the Department Review Board (DRB) that: 1) upon completion of a determinate SHU term when overwhelming evidence exists supporting an immediate threat to institutional security and/or safety of others and a substantial justification has been articulated of the need for SHU placement; or 2) the inmate has a substantial disciplinary history consisting of no less than three SHU terms within the past five years demonstrating an on-going threat to safety and security of the institution and/or others and less restrictive housing is not appropriate; or 3) the inmate who is currently serving an administrative SHU term may continue to be retained in SHU when overwhelming evidence exists supporting an on-going threat to institutional security and/or safety of others and it is determined by the DRB that continued retention is required because the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or safety of others and substantial justification has been articulated of the need for continued SHU placement; or the inmate has a substantial disciplinary history consisting of no less than three SHU terms within the past five years and substantial justification has been articulated for the need for continued SHU placement due to the inmate's ongoing threat to the safety and security of the institution and/or others, and the inmate cannot be housed in a less restrictive environment.

Debrief Processing Unit (DPU) is the centralized location/living unit where inmates who have chosen to disassociate from their Security Threat Group, will be housed to complete Phase One of the Debrief Process.

Restricted Custody General Population (RCGP) living units will provide a general population housing alternative to offenders: 1) who have a substantial threat to their personal safety should they be released to the general population; or 2) who have

refused to complete the Security Threat Group (STG) Step Down Program (SDP); or 3) who have been found guilty of repeated STG related Rules Violations Reports while in the SDP.

Existing section 3000 is amended to read:

Affiliate means individual offenders validated as members, or associates, ~~or monitored status~~ who are connected or interact with a certified or recognized Security Threat Group.

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

Confirmed Security Threat Group (STG) Behavior means behavior with a nexus to an STG which is discovered and confirmed to have occurred. Confirmation can be obtained through either a guilty finding in a STG related Rules Violations Report and/or any document that clearly describes the STG behavior/activities incorporated within the validation ~~or continued STG behavior~~ package which is affirmed by an STG Unit Classification Committee.

~~Inactive Monitored Status Affiliate means a validated affiliate who was released from the Security Housing Unit concurrent with the implementation of the Step Down Program through a Departmental Review Board hearing.~~

~~Inactive Status Affiliate means a validated affiliate who was released from Security Housing Unit (SHU) prior to implementation of the Step Down Program. This inmate was not previously identified as having been involved in gang related behavior for a period of six years, was reviewed by a Departmental Review Board, and released from the SHU.~~

~~Monitored Status Affiliate means any offender who has successfully completed Steps 1 –4 in the Step Down Program and has been released from a Security Housing Unit.~~

Prison Gang means any gang which originated and has its roots within the department or any other prison system. ~~Credit earning for validated prison gang members and associates housed in Administrative Segregation Units (ASU), Security Housing Units (SHU), Psychiatric Services Units (PSU), or Behavior Management Units (BMU) as referenced in Penal Code Section 2933.6 shall apply to inmates validated as STG-I members or associates who are housed in ASU, SHU, PSU, or BMU.~~

Security Threat Group (STG) Associate means any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. STG Associates will be identified through the validation process.

Step Down Program (SDP) ~~is a five-step program that provides inmates placed in a Security Housing Unit (SHU) due to STG validation and/or documented STG behaviors with a program expectation of discontinuing participation in STG related activities and~~

~~includes increased incentives to promote positive behavior with the ultimate goal of release from the SHU shall be 24 months in duration and consist of four program steps that take place within a SHU or other housing units where indicated. Each step will normally be 6 months in duration. The SDP incorporates rehabilitative programming consisting of both required and elective components.~~

~~Step Down Program, Step 1 and 2 SHU means the first two of five steps in the step down process designated for housing of STG affiliates determined to pose the greatest threat to the safety of staff, inmates, and the public, in addition to the security of the prison based upon intelligence and/or confirmed STG behaviors. Steps 1 and 2 are designed to be completed in 12 months each, but may be accelerated at the 180-day review.~~

~~Step Down Program, Step 3 and 4 SHU are steps in the five-step program intended to begin reintegration of the STG affiliates by offering program and privilege incentives within a controlled setting and monitoring of program progress, for housing of STG affiliates who have completed steps 1 and 2 and continue to pose a threat to the safety of staff, inmates, and the public.~~

~~Step Down Program, Step 5. Upon successful completion of all four SHU steps, as determined by Institutional Classification Committee (ICC) and based on individual inmate behavior, the inmate will be endorsed to General Population or similar specialized housing for a 12-month observation period known as Step 5.~~

Transitional Housing Unit is a general population program designated for the observation phase of the Debriefing process. This program may house those inmates that are in the second phase of the debriefing process.

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5050, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

§ 3023. Security Threat Group (STG) Activity Behavior.

Subsection 3023(a) remains unchanged.

Subsection 3023(b) is amended to read:

(b) CDCR has zero tolerance for any STG ~~activity~~ or behavior within its institutions. The STG Identification, Prevention, and Management Policy, as referenced in section 3378, recognizes that STG groups and STG group-like behavior ~~activity~~ pose a significant risk to the safety, security, and orderly operation of its institutions.

Subsections 3023(c) through Subsection 3023(d) remain unchanged.

Subsection 3023(e) is amended to read:

(e) Inmates shall not conspire, attempt, or participate in behavior ~~or activities~~ specifically identified in Section 3314(a)(3)(L) and 3314(a)(3)(M), Administrative Rules Violations, STG Contraband and Behavior, or Section 3315(a)(3)(Z) and 3314(a)(3)(AA), Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior.

Subsection 3023(f) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

§ 3043.8. Impact of Transfer on Credit Earning.

Subsections 3043.8(a) through 3043.8(e)(1) remain unchanged. Subsection 3043.8(e) is shown to provide context.

(e) Special housing unit transfers.

Subsection 3043.8(e)(2) is amended to read:

(2) Inmates placed in a SHU, PSU, or in ASU for reasons specified in section 3043.4 shall be placed in workgroup D-2. All other inmates in SHU, PSU, or ASU shall be placed in Work Group D-1. ~~BMU inmates shall be placed in the appropriate workgroup, as designated by committee.~~ The effective date of both workgroups shall be the first day of placement into SHU, PSU, ~~BMU~~ or ASU.

Subsection 3043.8(f) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

§ 3044. Inmate Work Groups and Privilege Groups.

Subsections 3044(a) through 3044(b)(1) remain unchanged. Subsection 3044(b)(1) is shown to provide context.

(1) Work Group A-1: (Full-time Assignment). An inmate willing and able to perform an assignment on a full-time basis shall be assigned to Work Group A-1, except when the inmate qualifies for the assignment of Work Group F or Work Group M pursuant to subsections (b)(7) or (b)(8) of this section. The work day shall not be less than 6.5 hours of work participation and the work week no less than 32 hours of work participation, as designated by assignment. Those programs requiring an inmate to participate during other than the normal schedule of eight-hours-per-day, five-days-per-week (e.g., 10-hours-per-day, four-days-per-week) or programs that are scheduled for seven-days-per-week, requiring inmate attendance in shifts (e.g., three days of 10 hours and one day of five hours) shall be designated as "special assignments" and require

departmental approval prior to implementation. "Special assignment" shall be entered on the inmate's timekeeping log by the staff supervisor.

Subsection 3044(b)(1)(A) is amended to read:

(A) Any inmate assigned to a rehabilitative program, including but not be limited to: substance abuse treatment, cognitive behavioral treatment, transitions, education, career technical education or any combination thereof, shall be assigned to Work Group A-1, except when the inmate qualifies for the assignment of Work Group M pursuant to subsection (b)(8) of this section. An inmate assigned to the Security Threat Group Step Down Program shall be assigned a work group in accordance with subsections (b)(5) and (b)(6) of this section.

Subsections 3044(b)(1)(B) through 3044(b)(4)(B) remain unchanged.

Subsections 3044(b)(5) through 3044(b)(6) are amended to read.

(5) Work Group D-1 (Lockup Status). An inmate assigned to a segregated housing program, shall be assigned to Work Group D-1, unless the inmate qualifies for continued assignment to Work Group F or Work Group M or initial assignment to Work Group M in accordance with subsections (b)(7)(D), (b)(7)(E), or (b)(8)(F) of this section. Inmates assigned to Steps 1 through 4 of the Security Threat Group Step Down Program and who are eligible to earn credit pursuant to section 2933 of the Penal Code, shall be awarded one day of credit for each day assigned to this work group. Inmates who are not eligible to earn credits pursuant to section 2933 of the Penal Code shall receive credits pursuant to their sentence. Segregated housing shall include, but not be limited to, the following:

- (A) Administrative Segregation Unit (ASU).
- (B) Security Housing Unit (SHU).
- (C) Psychiatric Services Unit (PSU).
- (D) Non-Disciplinary Segregation (NDS)

~~(6) Work Group D-2 (Lockup Status: Zero Credit). An inmate placed in SHU, PSU, or ASU for disciplinary related offenses, as described in Penal Code section 2933.6, upon validation as a STG-I member or associate shall be placed in Work Group D-2 and shall not be awarded Good Conduct Credit, as described in section 3043.2, during their placement in SHU, PSU, or ASU. Inmates placed in SHU, PSU, or ASU following the commission of any other serious disciplinary infraction shall not be awarded Good Conduct Credit for a period not to exceed the number of disciplinary credits forfeited.~~

Subsections 3044(b)(6)(A) through 3044(b)(9) remain unchanged.

Subsections 3044(c) through 3044(c)(6) remain unchanged. Subsection 3044(c)(6) is provided to show context.

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

Subsection 3044(c)(6)(A) is amended to read:

(A) An inmate housed in an ASU, SHU, or PSU shall be designated Privilege Group D with the exception of: ~~inmate designated as NDS who shall retain their privilege group prior to ASU placement.~~

Subsections 3044(c)(6)(A)1. Through 3044(c)(6)(A)4. are added to read:

1. Inmates designated as NDS who shall retain their privilege group prior to ASU placement;
2. Inmates placed in the Security Threat Group Step Down Program in accordance with subsection (i) of this section;
3. Inmates who are assigned to the Debrief Processing Unit (DPU) in accordance with Section 3378.7;
4. Inmates who are on Administrative SHU status in accordance with section 3044(j).

Subsections 3044(c)(7) through 3044(c)(9) remain unchanged.

Subsection 3044(c)(10) is added to read:

(10) When assigned to a RCGP facility, the inmate's privileges shall be in accordance with section 3378.9.

Subsections 3044(d) through 3044(g) remain unchanged. Subsection 3044(g) is shown to provide context.

(g) Privilege Group D:

Subsection 3044(g)(1) is amended to read:

(1) Criteria: Any inmate, with the exception of validated STG affiliates participating in the SDP, placed on Administrative SHU status per section 3341.3, or designated NDS inmates, housed in a special segregation unit, voluntarily or under the provisions of sections 3335–3345 of these regulations who is not assigned to either a full-time or half-time assignment.

Inmates assigned to Steps 1 through 4 of the SDP while completing the ~~interview phase~~ Pre-Debrief Intake Panel (DIP) portion of Phase One of the debriefing process, as described in section 3378.5, are entitled to privileges and non-privileges commensurate with the SDP step to which the offender is currently assigned, in accordance with subsection (i) of this section and section 3378.7.

Subsections 3044(g)(2) through 3044(i) remain unchanged. Subsection 3044(i) is shown to provide context.

(i) Privilege Group S1 through S4:

Subsection 3044(i)(1) remains unchanged.

Subsection 3044(i)(2) is renumbered to 3044(i)(3) and relocated and remains unchanged.

Subsection 3044(i)(2) is added to read:

(2) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315.

Subsection 3044(i)(3)(A) remains unchanged. Subsection 3044(i)(3)(A) is shown to provide context.

(A) S1 for Step 1.

Subsections 3044(i)(3)(A)1. through 3044(i)(3)(A)9. are amended to read.

1. No Family Visits.

2. Non-contact ~~V~~visiting during non-work/training hours, limited by available space within facility non-contact visiting room.
3. Twenty-five percent (25%) of the maximum monthly canteen draw as authorized by the secretary.
4. Telephone calls on an emergency basis ~~only~~ as determined by institution/facility staff. ~~At the 180-day Institution Classification Committee (ICC) review, if the inmate has met program expectations and has not been found guilty of STG related behavior, ICC shall authorize one (1) telephone call.~~
5. One telephone call every 90 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.
- ~~56.~~ Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week.
- ~~67.~~ The receipt of one inmate package, 30 pounds maximum weight, ~~per year,~~ exclusive of special purchases as provided in Section 3190. ~~Inmates shall be eligible to acquire an inmate package after completion of one year of Privilege Group D or SDP assignment.~~
- ~~78.~~ One photograph ~~upon completion of 1 year free of serious disciplinary behavior while in SHU.~~
- ~~89.~~ Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).

Subsection 3044(i)(3)(B) remains unchanged. Subsection 3044(i)(3)(B) is shown to provide context.

(B) S2 for Step 2.

Subsections 3044(i)(3)(B)1. through 3044(i)(3)(B)9. are amended to read.

1. No Family Visits.
2. Non-contact ~~V~~visiting during non-work/training hours, limited by available space within facility non-contact visiting room.
3. Thirty-five percent (35%) of the maximum monthly canteen draw as authorized by the secretary.
4. ~~One telephone call upon transition to Step 2.~~ Telephone calls on an emergency basis as determined by institution/facility staff.
5. One telephone call every 60 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.
- ~~56.~~ Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week.
- ~~67.~~ The receipt of one inmate package, 30 pounds maximum weight, ~~per year,~~ exclusive of special purchases as provided in Section 3190. ~~Inmates shall be eligible to acquire an inmate package after completion of one year of an SDP assignment.~~
- ~~78.~~ One ~~Two~~ photographs - upon completion of 1 year free of serious disciplinary behavior while in SHU if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period, upon completion of Step 2.
- ~~89.~~ Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).

Subsection 3044(i)(3)(C) remains unchanged. Subsection 3044(i)(3)(C) is shown to provide context.

(C) S3 for Step 3.

Subsections 3044(i)(3)(C)1. through 3044(i)(3)(C)9. are amended to read.

1. No Family Visits.
2. Non-contact ~~V~~visiting during non-work/training hours, limited by available space within facility non-contact visiting room.
3. Forty-five percent (45%) of the maximum monthly canteen draw as authorized by the secretary.
4. ~~One telephone call upon transition to Step 3 and one additional telephone call upon review and approval of ICC at the 180 day review.~~ Telephone calls on an emergency basis as determined by institution/facility staff.
5. One telephone call every 45 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.
56. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week .
67. The receipt of ~~two~~ one inmate packages, 30 pounds maximum weight, ~~per year,~~ exclusive of special purchases as provided in Section 3190.
78. ~~One Three~~ photographs ~~upon transition to Step 3 and one additional photograph upon review and approval of ICC at the 180 day review~~ if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period, upon completion of Step 3.
89. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).

Subsections 3044(i)(3)(C)10. through 3044(i)(3)(C)11. are added to read:

10. Small Group Programs at least two hours per week.
11. Access to appropriate educational programs.

Subsection 3044(i)(3)(D) remains unchanged. Subsection 3044(i)(3)(D) is shown to provide context.

(D) S4 for Step 4.

Subsections 3044(i)(3)(D)1. through 3044(i)(3)(D)9. are amended to read.

1. No Family Visits.
2. Non-contact ~~V~~visiting during non-work/training hours, limited by available space within facility non-contact visiting room.
3. Fifty percent (50%) of the maximum monthly canteen draw as authorized by the secretary.
4. ~~One telephone call upon transition to Step 4 and one additional telephone call after review and approval of ICC at each 90 day review.~~ Telephone calls on an emergency basis as determined by institution/facility staff.
5. One telephone call every 30 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.
56. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week. Participation on small group yards as determined by the Institution Classification Committee (ICC). ~~Yard activities will include interaction with inmates of diverse affiliations after 6 months of programming within Step 4.~~
67. The receipt of ~~two~~ one inmate packages, 30 pounds maximum weight each, ~~per year,~~ exclusive of special purchases as provided in Section 3190. In addition, receipt of one inmate package, ~~non-food only,~~ 15 pounds maximum weight, ~~per year.~~

~~78. One Four photographs upon transition to Step 4 and one additional photograph upon review and approval of ICC at the third 90 day review every 90 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~

~~89. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~

Subsections 3044(i)(3)(D)10. through 3044(i)(3)(D)11. are added to read:

10. Small group programs at least four hours per week.

11. Access to appropriate educational programs.

Subsections 3044(j) through 3044(j)(2)(H) are deleted.

~~(j) Privilege Group S5:~~

~~(1) Criteria: Any offender in SHU for non-disciplinary reasons including a validated affiliate who has completed the SDP and is being retained in SHU for non-disciplinary reasons.~~

~~(2) Privileges and non-privileges for Privilege Groups S5 are:~~

~~(A) No Family Visits.~~

~~(B) Visiting during non-work/training hours, limited by available space within facility non-contact visiting room.~~

~~(C) Seventy Five percent (75%) of the maximum monthly canteen draw as authorized by the secretary.~~

~~(D) One telephone call per month.~~

~~(E) Yard access in accordance with Section 3343(h).~~

~~(F) The receipt of four inmate packages, 30 pounds maximum weight each, per year. Offenders may also receive special purchases, as provided in subsections 3190(j) and (k).~~

~~(G) One photograph upon completion of each 180-day ICC review.~~

~~(H) Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~

Subsection 3044(j)(3) is renumbered to 3044(j)(4) and remains unchanged.

Subsections 3044(j) through 3044(j)(3)(I) are added to read:

(j) Privilege Group AS:

(1) Criteria: Any offender in SHU serving an Administrative SHU term as described in section 3000.

(2) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315.

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

(A) No Family Visits.

(B) Non-contact visiting during non-work/training hours, limited by available space within facility non-contact visiting room.

(C) Canteen draw may range from twenty-five percent (25%) to seventy five percent (75%) of the maximum monthly canteen draw as authorized by the secretary and designated by ICC.

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

(E) One phone call at least every 90 days, and ICC may modify the call frequency up to one phone call every month.

(F) Enhanced out of cell yard and programming for a combined total of 20 hours per week.

(G) Receipt of inmate packages, 30 pounds maximum weight each. Offenders may also receive special purchases, as provided in subsections 3190(j) and (k). ICC shall designate between one and four packages per year.

(H) Photographs every 90 days, if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period. ICC shall designate between one and four photographs every 90 days.

(I) Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 2700, 2701 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224 (1988).

§ 3084.9 Exceptions to the Regular Appeal Process.

Subsections 3084.9(a) through 3084.9(i)(6) remain unchanged.

Subsections 3084.9(j) through 3084.9(j)(8) are added to read:

(j) Appeal to the DRB of transfer decision to place an inmate in the RCGP.

(1) An inmate may appeal an ICC decision to the DRB when ICC determines placement in a RCGP facility is appropriate based on the inmate being found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports while housed in the Security Housing Unit (SHU) Step Down Program (SDP).

(2) The appellant shall use a CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, to describe the specific issue under appeal. A CDCR Form 602-A (08/09), Inmate/Parolee Appeal Form Attachment, shall be used if additional space is needed to describe the issue under appeal or the relief requested. Such appeals shall bypass the first and second levels of review.

(3) The appellant shall submit the appeal within 30 days of receiving the CDC Form 128-G, (Rev. 10/89) Classification Chrono, in which the ICC decision is documented.

(4) The appellant shall mail the appeal and supporting documents to the third level Appeals Chief via the United States mail service utilizing his or her own funds, unless the appellant is indigent in which case the mailing of appeals to the third level of review shall be processed in accordance with indigent mail provisions pursuant to section 3138.

(5) The Appeals Chief or designee shall log the appeal and forward to the Chief, Classification Services Unit (CSU) for response.

(6) The Chief, CSU shall review the materials provided and prepare the appeal for discussion with the DRB.

(7) The DRB will review the inmate's disciplinary history which caused placement in RCGP, pursuant to section 3378.9 and determine whether removal from the SHU SDP and transfer to the RCGP was appropriate. An appearance before the DRB by the inmate is not required for a determination on such an appeal.

(8) The decision of the DRB shall be documented on the CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal and returned to the Appeals Chief where it will be logged and forwarded to the inmate.

Note: Authority cited: Section 5058, Penal Code; and Section 6304.3, Labor Code.
Reference: Sections 148.6, 832.5, 832.7, 832.8, 5054 and 5058.4, Penal Code; Sections 935.6, 965, 3300-3313, 19570-19575.5, 19583.5 and 19635, Government Code; Sections 98.7 and 6304.3, Labor Code; Sections 337, 338 and 339, Code of Civil Procedure; Sections 344.40, 344.41, 344.42 and 344.43, Title 8, Industrial Relations, California Code of Regulations; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; 28 CFR Sections 35.107 and 115.52; *Wolff v. McDonnell* (1974) 418 U. S. 539, 558-560; and *Vasquez v. State of California*, 105 Cal.App.4th 849 (2003) as implemented by the Stipulated Injunction and Order entered by the Superior Court of San Diego County in Case No.GIC-740832.

§ 3269. Inmate Housing Assignments.

Subsections 3269 Presentence through 3269(a) remain unchanged.

Subsection 3269(b) is amended to read:

(b) The screening authority shall complete the Initial Housing Review stating if the inmate is suitable for dorm/cell housing with or without special restrictions. Restrictions are any case factors which may limit the inmate's housing placement options such as, but not limited to:

- Security issues including ASU, Restricted Custody General Population (RCGP), and SHU placement.
- Request for Protective Custody.
- Medical or mental health issues.
- Personal factors such as age, weight, and height.
- Integrated Housing Code.

Staff shall ensure that the housing policies regarding special category inmates covered under specific litigation remain in place during the housing assignment.

Subsections 3269(c) through 3269(h) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Quine v. Beard*, No. C 14-02726 JST.

Section 3334 is repealed in its entirety.

~~§ 3334. Behavior Management Unit.~~

~~(a) An inmate may not be assigned to a Behavior Management Unit (BMU), as defined in section 3000, except on the order of a Classification Committee.~~

~~(b) Inmates may be referred to a Classification Committee for placement into the BMU for one or more of the following reasons:~~

~~(1) Program Failure. The inmate is deemed a Program failure as defined by section 3000.~~

~~(2) Security Housing Unit (SHU) Offense as defined in section 3341.5(c)(9).~~

~~(A) If an inmate has been found guilty of an offense for which a determinate term of confinement has been assessed, whether imposed or suspended, and whose in-~~

~~custody behavior reflects a propensity towards disruptive behavior, the inmate may be referred to a classification committee for placement in the BMU.~~

~~(B) Inmates currently serving a determinate SHU term whose in-custody behavior reflects a propensity towards disruptive behavior, which otherwise would not be eligible for additional SHU term assessment, shall be considered by the Institutional Classification Committee (ICC) for placement in a BMU upon completion or suspension of the SHU term.~~

~~(C) Inmates that have reached the Minimum Eligible Release Date (MERD) and have demonstrated an unwillingness to program in the general population may be reviewed by the Classification Committee for BMU placement consideration.~~

~~(3) Security Threat Group Related Activity. STG related behavior which does not otherwise warrant placement into the STG Step Down Program (SDP). STG related activities and behaviors meeting criteria for consideration of placement into the SDP are identified in Section 3378.4(a), STG Disciplinary Matrix.~~

~~(c) Inmates who meet the criteria for placement in the BMU program per section 3334(b) shall be reviewed by a Classification Committee after initial placement in the BMU program as outlined in section 3334(c)(3) below. The Classification Committee shall review, determine and assess the appropriate step, and if applicable approve a step change as outlined in section 3334(e) for each BMU inmate as recommended by BMU staff not less than every 30 days.~~

~~(1) Initial placement into the BMU shall be for a minimum of 90 days beginning on the date of reception into the BMU.~~

~~(2) Subsequent BMU placements shall be for a minimum of 180 days beginning on the date of reception into the BMU. Inmates who require subsequent placement will be monitored by BMU staff to ensure program compliance. If an inmate refuses to participate as required, the Classification Committee will review for possible program rejection.~~

~~(3) The Classification Committee will complete an initial assessment and develop an Individualized Training Plan (ITP) within 14 days of placement into BMU. The ITP will be based on each inmate's reason(s) for placement as outlined in section 3334(b).~~

~~(4) Inmates shall be expected to meet the requirements established by the Classification Committee as outlined in the ITP.~~

~~(5) Inmates must remain disciplinary free and complete the ITP as directed by the Classification Committee before being released from the BMU. The ITP may include, but is not limited to, participation in departmentally approved cognitive behavior programs, and/or participation in self help groups.~~

~~(6) The Classification Committee shall be responsible for providing the inmate with notification of the rules and intent of the BMU program. The CDC 128-G, Classification Chrono (Rev. 10/89), shall clearly state that the inmate was informed of the reason for placement, the length of placement, and any additional action the inmate must take to successfully complete the BMU program. (d) In each case of BMU placement, release from the BMU is based upon completion of the ITP established by the Classification Committee.~~

~~(1) The Classification Committee will determine if the inmate has successfully completed their ITP requirements or failed to meet their requirements. Inmates who have met their ITP requirements shall be eligible to advance to the next step of the BMU program. Inmates who have not met their ITP requirements shall be reviewed for appropriate step placement.~~

~~(e) BMU Step Process: Work Group/Privilege Group designations~~

~~(1) All inmates placed into the BMU will be designated a Work Group (WG), consistent with section 3044, and as determined by the Classification Committee effective the date of placement. Regardless of the WG, the designated Privilege Group (PG), consistent with section 3044, for Step 1 and Step 2 shall be C. The designated PG for Step 3 shall be B. All Work/Program assignments for BMU inmates shall be restricted to and located in the BMU.~~

~~(A) Step 1: Initial Placement - WG A1, A2, B or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 2.~~

~~(B) Step 2: WG A1, A2, B, or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 3.~~

~~(C) Step 3: WG A1, A2, B and PG B. If the inmate meets the goals of the ITP, he will advance to Step 4.~~

~~(D) Step 4: Upon completion of the ITP, inmates will be returned to traditional general population housing.~~

~~(f) Failure to progress in the stepped process shall be grounds for rejection from the BMU program and a review by the Classification Committee for placement on WG C PG C status. Inmates who have been rejected from the program shall not be placed in any other general population work or program assignment until they have successfully completed their ITP in the BMU. Inmates who have been rejected from the BMU program must submit a written request to their Correctional Counselor I for readmission to the program and shall be reviewed by the Classification Committee.~~

~~(g) Authorized BMU Property~~

~~(1) Inmates shall possess only the listed items of personal property while assigned to the BMU:~~

~~(A) Ring (Wedding band, yellow or white metal only. Not to exceed \$100 maximum declared value, and may not contain a set or stone), one.~~

~~(B) Religious Medal and Chain, as identified within the Religious Personal Property Matrix.~~

~~(C) Religious Items, as identified within the Religious Personal Property Matrix.~~

~~(D) Books, Magazines, and Newspapers (paperback or hardback with cover removed only. Limit does not apply to legal materials), ten.~~

~~(E) Prescription eyeglasses, clear lens only, one (as prescribed by a physician) pair.~~

~~(F) Tennis Shoes (no shades of red or blue, low, mid, or high tops are permitted. Must be predominantly white in color. Shoe laces white only. Not to exceed \$75.00. No hidden compartments, zippers, or laces that are covered or concealed. No metal components including eyelets), one pair.~~

~~(G) Shower shoes (foam or soft rubber, single layer construction, not exceeding 1" in thickness), one pair.~~

~~(H) Briefs (white only), ten pairs.~~

~~(I) Gloves (cold weather gloves upon approval of Warden, no zippers, pockets, or metal), one pair.~~

~~(J) Watch Cap (no black, cold weather watch caps upon approval of Warden), one.~~

~~(K) Rain Coat/Poncho (transparent only), one.~~

~~(L) Socks (white only, any combination of short to knee-high), seven pairs.~~

~~(M) Under Shirts (white only, any combination of crew neck, v-neck, long sleeve or sleeveless athletic tank top. Turtle neck and mock turtle neck are not permitted), five pairs.~~

~~(N) Dental Adhesive (for approved denture wearers only), two.~~

~~(O) Dental Flossers/Gliders (no more than 3" in length, amount allowed in possession to be determined by local institutional procedure).~~

- ~~(P) Dental Cleanser, one box.~~
- ~~(Q) Deodorant/Antiperspirant (stick or roll on, must be clear and in clear container only), four.~~
- ~~(R) Medications, Over-The-Counter (OTC) (only those OTC medications permitted by the Division of Correctional Health Care Services shall be stocked by institution canteens, OTC medications are not approved for inmate packages).~~
- ~~(S) Mouthwash (non-alcoholic only), one.~~
- ~~(T) Palm Brush/Comb (no handle, plastic only), one.~~
- ~~(U) Razor, Disposable (not permitted in Level IV 180 design housing), five.~~
- ~~(V) Shampoo, one.~~
- ~~(W) Shaving Cream (non-aerosol), one.~~
- ~~(X) Soap, Bar, six.~~
- ~~(Y) Soap Dish (non-metal), one.~~
- ~~(Z) Toothbrush (subject to local determination of maximum length, local facility is required to shorten if necessary, to meet local requirements), one.~~
- ~~(AA) Toothbrush Holder (plastic only, may only cover head of toothbrush), one.~~
- ~~(AB) Toothpaste/Powder (toothpaste must be clear and in clear container), one.~~
- ~~(AC) Washcloths (white only), two.~~
- ~~(AD) Address Book (paperback only, 3" x 5" maximum), one.~~
- ~~(AE) Ballpoint Pens (non-metal, clear plastic only), one.~~
- ~~(AF) Bowl (construction material to be approved by Division of Adult Institution (DAI), maximum of 8" in diameter), one.~~
- ~~(AG) Can Opener (restricted from Level IV housing), one.~~
- ~~(AH) Legal Pads/Tables and Notebooks (no spiral bound), one.~~
- ~~(AI) Envelopes, Blank and/or Pre-Stamped, forty.~~
- ~~(AJ) Envelopes, Metered (indigent inmates only), five.~~
- ~~(AK) Legal material, as authorized per section 3161.~~
- ~~(AL) Photos/Portraits (maximum of 8" x 10"), fifteen.~~
- ~~(AM) Reading Glasses Non Prescription (magnifying glasses), one pair.~~
- ~~(AN) Stamps (U.S. Postal only), forty.~~
- ~~(AO) Stationary (for written correspondence, may be decorated and have matching envelopes), fifteen sheets.~~
- ~~(AP) Tumbler (construction material to be approved by DAI, 16 ounce or less), one.~~
- ~~(AQ) Health Care Appliance (Dr. Rx. Only. Not subject to the six-cubic foot limit).~~
- ~~(AR) Canteen items, not to exceed one month's draw of assigned privilege group.~~
- ~~(2) Inmates in the BMU shall possess personal property as authorized in section 3190(c) and 3334(g)(1).~~
- ~~(3) Inmates assigned to the BMU upon the initial placement will have their personal property, not identified as authorized BMU property outlined in 3334(g)(1) and 3334(g)(2) stored, provided:~~
 - ~~(A) Initial BMU placement is for no more than 90 days.~~
 - ~~(B) Inmate participates in the BMU program and progresses to the next step at each 30-day review as outlined in section 3334(e).~~
 - ~~(C) Inmate does not receive any property related disciplinary violations while in the BMU program.~~
- ~~(4) Should the inmate fail to comply with the provisions above, all unallowed personal property not identified as authorized BMU property outlined in 3334(g)(1) and 3334(g)(2) shall be disposed of as provided in section 3191(c).~~

~~(5) Inmates assigned to the BMU upon the second or subsequent placements shall have all personal property, not outlined in 3334(g)(1) and 3334(g)(2), disposed of as provided in section 3191(c).~~

~~(h) Canteen. BMU inmates will be allowed only one (1) draw per month. Canteen privileges shall be established by the Classification Committee as follows:~~

~~Step 1— One fourth the maximum monthly canteen draw as authorized in section 3044(f).~~

~~Step 2— One fourth the maximum monthly canteen draw as authorized in section 3044(f).~~

~~Step 3— One half the maximum monthly canteen draw as authorized in section 3044(e).~~

~~(i) Vendor packages are authorized for receipt by inmates housed within the BMU in accordance with their privilege group status as provided in section 3044(c).~~

~~(j) Mental Health Services. BMU inmates will be seen by the Mental Health Department in accordance with normal GP treatment expectations as outlined within the Mental Health Services Delivery System (MHSDS). A Mental Health clinician shall attend the Classification Committee for all initial reviews in order to assess the appropriateness of BMU placement for an inmate included in the MHSDS. Inmate's currently at the Enhanced Out Patient (EOP) level of care are not eligible for BMU placement.~~

~~(k) Visits. BMU inmates are permitted visits with their approved visitors. All visits for inmates at Step 1 and 2 will be non-contact, this includes attorney visits. Inmates at Step 3 will be afforded contact visits.~~

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code.

§ 3335. Administrative Segregation.

Subsections 3335 Presentence through 3335(a)(1)(A) are amended to read:

When an inmate's presence in an institution's General Population (GP) inclusive of the Restricted Custody General Population (RCGP) facility presents an immediate threat to the safety of the inmate or others, endangers institution security or jeopardizes the integrity of an investigation of an alleged serious misconduct, criminal activity, or the safety of any person, the inmate shall be immediately removed from the GP and placed in administrative segregation. Administrative segregation may be accomplished by confinement in a designated Administrative Segregation Unit (ASU) or, in an emergency, to any single cell unit capable of providing secure segregation. CDCR staff shall not place inmates into a SHU, ASU, or the SDP solely on the basis of their validation status.

(a) Non Disciplinary Segregation.

(1) Non Disciplinary Segregation (NDS) means temporary segregated housing placement for administrative reasons to include but are not limited to:

(A) ASU placement for investigation of safety concerns not resulting from misconduct warranting a Rules Violation Report.

Subsections 3335(a)(1)(B) through 3335(e) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; 28 CFR Sections 115.42 and 115.43; *Wright v. Enomoto*, (1976) 462 F

Supp 397; and *Toussaint v. McCarthy* (9th Cir. 1986) 801 F2d 1080, cert. denied, 481 U.S. 1069.

§ 3337. Classification Hearing of Administrative Segregation Placements.

Subsections 3337(a) through 3337(c) remain unchanged. Subsection 3337(c) is shown to provide context.

(c) Any inmate retained in administrative segregation at the initial ICC hearing shall be presented to a CSR within 30 days of the hearing date for review and approval. Subsequent ICC reviews shall proceed in accordance with the following timelines, considering any applicable projected Minimum Eligible Release Date (MERD) as defined in Section 3000, until the inmate is released to the GP:

Subsection 3337(c)(1) is amended to read:

(1) At intervals of not more than 180-days: when a pending Security Housing Unit (SHU) assessable Rules Violation Report (RVR) is postponed pending a court proceeding, or a referral to the District Attorney (DA) for possible prosecution, ~~or pending completion of Security Threat Group (STG) validation investigation process pursuant to subsection 3341.3(a)(1)(D) & (E).~~ Administrative segregation extension requests specific to pending disciplinary matters shall identify the inmate's intent to postpone the disciplinary hearing, as well as, the status of the pending DA referral. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days. Inmates who have postponed their RVR pending a court proceeding or a referral to the DA shall not be retained in ASU past the anticipated projected MERD unless ICC has reason to believe based on the inmate's disciplinary history, and other case factors, including the existence of overwhelming evidence supporting an immediate threat to the security of the institution or the safety of others that referral to the Departmental Review Board is necessary for: 1) assessment of administrative SHU status would be necessary for the safety and security of the institution or persons, following the adjudication of the RVR; or 2) the inmate's safety needs will require appropriate housing determination. In these cases a new CDC Form 114-D shall be immediately prepared and issued, clearly articulating the reasons for continued retention, in accordance with section 3335.

Subsections 3337(c)(2) through 3337(c)(3) remain unchanged.

Subsections 3337(c)(4) is amended to read:

(4) At intervals of not more than 90 days: pending completion of an investigation into the safety of any person, institutional security, serious misconduct or criminal activity, ~~excluding STG validation.~~ Should the completed investigation result in the issuance of a RVR and/or referral to the DA for criminal prosecution, the ICC shall review the case in accordance with the schedule set forth in subsections (1) or (3) above. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days.

Subsections 3337(c)(5) and 3337(c)(6) are added to read:

(5) At the pre-MERD and at intervals of not more than 90 days: when retention is warranted due to the inmate being assigned to the Security Threat Group (STG) Step Down Program (SDP) and transfer to the SHU is pending.

6) At intervals of not more than 90 days: upon receipt of an inmate's request to initiate the Debrief Process, in accordance with CCR section 3378.5.

Subsections 3337(d) through 3337(e) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Wright v. Enomoto*, (1976) 462 F Supp 397; and *Toussaint v. McCarthy* (9th Cir. 1986) 801 F2d 1080, cert. denied, 481 U.S. 1069).

§ 3341. Segregated Program Housing Units.

Subsections 3341(a) through 3341(c) are amended to read:

(a) Segregated Program Housing Units (SPHU) are designated for extended term programming of inmates not suited for housing in the general population. They are specialized programming units with established placement criteria. Placement into these units requires approval by a Classification Staff Representative (CSR) or by the Departmental Review Board (DRB) if the inmate is being assessed an Administrative Security Housing Unit (SHU) term, on the basis of classification committee recommendations and referrals.

(b) With the exception of Protective Housing Unit (PHU) and as otherwise specified in subsections section 3378.3(b)(1) through 3378.3(b)(3), SPHU placement for administrative SHU purposes shall be reviewed by ICC at least every 180 days, or sooner as directed by a CSR. Prior to ICC's annual review, staff shall evaluate the inmate's program participation, current case factors, and his desire to leave administrative SHU housing. Staff will inform the inmate of other housing and program options such as the Restricted Custody General Population (RCGP), Debrief Processing Unit (DPU), or general population, for which his case factors may allow placement. Staff shall document this discussion on a CDC Form 128-B (Rev. 4/74), General Chrono including his interest in other alternative housing options and forward to ICC for consideration at the annual review. ICC's annual review shall result in referral to DRB if continued segregation is deemed appropriate. The DRB shall annually assess the inmate's case factors and disciplinary behavior and shall articulate the basis for continued retention on Administrative SHU status. For determinate SHU inmates, ICC reviews shall be no less frequently than every 180 days following their initial SHU annual review, or sooner as directed by a CSR. The purpose of such reviews is to evaluate the inmate's case factors to determine if specialized housing continues to be the most appropriate and least restrictive placement option commensurate with any existing threat to institutional security or the safety of any person.

(c) Special circumstances or exceptions to the placement criteria for SPHU must be referred to and decided by the ~~Departmental Review Board (DRB)~~ in accordance with section 3376.1.

Subsection 3341(d) remains unchanged.

Subsection 3341(e) is being added to read:

(e) When an inmate is removed from the SHU Step Down Program (SDP) due to the need for in-patient medical or mental health treatment and a determination is made that the inmate has completed the required treatment, the inmate shall be referred to the ICC for consideration of return to the SDP. ICC shall award credit for the time spent in this alternate housing, toward completion of the SDP.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; and *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490.

§ 3341.2. Psychiatric Services Unit.

Subsection 3341.2 Presentence through 3341.2(a) remain unchanged. Subsection 3341.2(a) is shown to provide context.

(a) An inmate shall be housed in a Psychiatric Services Unit (PSU), if:

Subsection 3341.2(a)(1) is amended to read:

(1) The inmate is included in the MHSDS at the Enhanced Outpatient Program (EOP) level of care and the inmate's conduct has resulted in either a determinate SHU term, or administrative SHU term or requires placement in the Security Threat Group (STG) SDP.

Subsections 3341.2(a)(2) through 3341.2(b) remain unchanged.

Subsection 3341.2(c) is amended to read:

(c) The CSR shall document any pending issues, such as disciplinary matters, SDP program placement, DA referrals or investigations, on the CDC Form 128-G (Rev. 10/89) identifying the sending institutions responsibility for resolving any outstanding concerns.

Subsection 3341.2(d) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146, 1278; *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F. 3d 1267 (9th Cir. 1997).

§ 3341.3. Security Housing Unit

Subsection 3341.3 Presentence is amended to read:

An inmate whose conduct endangers the safety of others or the security of the institution shall be housed in a Security Housing Unit (SHU) ~~for~~ to complete an administrative reasons SHU term or for a determinate period of time, if found guilty for serious misconduct pursuant to section 3341.9(e). CDCR staff shall not place inmates into a SHU, Administrative Segregation Unit, or the SDP solely on the basis of their validation status.

Subsections 3341.3(a) through 3341.3(a)(2)(D)4. are deleted.

~~(a) Placement in SHU shall be based on the following criteria:~~

~~(1) Administrative SHU. An inmate may be assessed an administrative SHU term when:
(A) At a pre-MERD review, ICC identifies an inmate with a substantial disciplinary history, consisting of no less than three SHU terms within the past five years, which demonstrates an unwillingness to comply with departmental rules and behavior. ICC shall articulate substantive justification for the need of continued SHU placement due to the inmate's ongoing threat to the safety and security of the institution and/or others.~~

~~(B) The inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others, where ICC shall articulate substantive justification for the need for SHU placement.~~

~~(C) The inmate has voluntarily requested continued retention in segregation, where ICC has carefully articulated and substantively justified support for retention and the inmate does not qualify for housing within the Protective Housing Unit.~~

~~(D) The inmate is a validated STG affiliate and placed in the Step Down Program by ICC or DRB in accordance with section:~~

~~1. STG-I Member: upon initial validation and Institutional Classification Committee Confirmation.~~

~~2. STG-I Associate: as part of initial validation, source items include serious documented STG behavior or activity as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in Section 3341.9(e) SHU Term Assessment Chart.~~

~~3. STG-II Member or Associate: as part of initial validation, source items include two occurrences, both of which have occurred within four years of the validation date, of serious documented STG behavior or activity, as listed in section 3378.4(a) STG Disciplinary Matrix which are also identified in CCR Section 3341.9(e) SHU Term Assessment Chart.~~

~~(E) As provided in Section 3378.4(c), a validated STG affiliate shall be considered by ICC for initial placement in a SHU. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining the need for placement in a SHU/Step Down Program (SDP) for an administrative term when the following criteria are met:~~

~~1. STG-I Associate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.~~

~~2. Inactive Status or Inactive-Monitored Status Affiliate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.~~

~~3. STG-II Member or Associate: the validated affiliate being found guilty of two serious STG related rules violation reports as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.9(e) SHU Term Assessment Chart within the preceding four (4) years.~~

~~4. Monitored Status or Dropout Status Affiliate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.~~

~~(F) The DRB approves placement.~~

~~(2) Determinate SHU. An inmate shall be assessed a determinate SHU term when the inmate is found guilty of a Rules Violation Report for an offense specifically listed in subsection 3341.9(e) and ICC has determined the inmate presents a threat to the security of the institution and/or the safety of others.~~

~~(A) A determinate SHU term shall be computed using the SHU Term Assessment Chart, pursuant to subsection 3341.9(e), utilizing the SHU Term Assessment Worksheet. All determinate SHU terms shall be assessed at the expected term for the offense, in the absence of mitigating or aggravating factors, as listed in subsections 3341.9(b) & (c).~~

~~(B) The SHU term effective date shall be the date of placement in administrative segregation or upon the date of discovery of the information leading to the disciplinary charge, whichever occurs first.~~

~~(C) Inmates shall be assessed a determinate SHU term for serious misconduct occurring while on administrative SHU status provided the inmate is found guilty of an offense listed in subsection 3341.9(e). The administrative SHU status shall run concurrently to any/all assessed Determinate SHU terms, whether active or suspended, and upon the MERD the administrative status will continue.~~

~~(D) Only rule violations occurring within the past 5 years on an inmate's current CDCR number which warrant a SHU assessment shall be addressed by ICC and reviewed by the CSR. ICC shall assess the appropriate SHU term per 3341.9(e) and one of the following actions:~~

- ~~1. Impose/Re-impose~~
- ~~2. Impose/Re-impose and Suspend~~
- ~~3. Impose/Re-impose and Suspend in Entirety~~
- ~~4. Commute~~

~~Re-imposed SHU terms shall be addressed in accordance with section 3341.6.~~

Subsections 3341.3(a) through 3341.3(a)(1) are added to read:

(a) CDCR shall not house any inmate within the SHU at Pelican Bay State Prison (PBSP) for more than 5 continuous years. Inmates housed in the PBSP SHU requiring continued SHU placement beyond this limitation will be transferred to another SHU facility. Inmates who have previously been housed in the PBSP SHU for 5 continuous years can only be returned to PBSP SHU if that return has been specifically approved by the DRB and at least 5 years have passed since the inmate was last housed in PBSP SHU.

Inmates may request in writing that they be housed in the PBSP SHU in lieu of another SHU location, but such a request must be reviewed and approved by the DRB. An inmate's request to remain housed in the PBSP SHU shall be documented by the ICC in the CDC Form 128-G, (Rev. 10/89) Classification Chrono, which is incorporated by reference, at each scheduled ICC review.

Subsection 3341.3(b) is deleted.

~~(b) SHU terms shall be served in a departmentally approved SHU, or a facility specifically designated for that purpose, except under those circumstances where the term may be served in ASU or PSU. SHU terms may also be served in secure inpatient medical or mental health settings, when deemed clinically necessary. Inmates who are serving a SHU term in ASU shall be reviewed by a classification committee pursuant to section 3341.8.~~

Subsection 3341.3(b) is added to read:

(b) A break in continual restrictive housing is defined as the inmate being released from the SHU, received in non-restricted housing at the assigned institution/facility and has attended his Initial Classification Committee. In addition, when an inmate is paroled, discharged or otherwise out of CDCR custody, that time shall be considered a break in continual restrictive housing.

Subsection 3341.3(c) is deleted.

~~(c) SHU classification decisions, including notification of the reasons for a classification hearing, SHU term assessment, housing restrictions, and yard assignment shall be documented on the CDC Form 128-G (Rev. 10/89), with a copy provided to the inmate.~~

Subsections 3341.3(c) through 3341.3(e) are added to read:

(c) Placement in SHU shall be based on the following criteria:

(1) Administrative SHU as defined in Section 3000. An inmate may be assessed an administrative SHU term by the DRB when the DRB articulates a substantial justification for the need for SHU placement due to the inmate's ongoing threat to safety and security of the institution and/or others, and the inmate cannot be housed in a less restrictive environment and:

(A) ICC identifies an inmate who, upon completion of a determinate SHU term, the DRB determines the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others, and substantial justification has been articulated of the need for continued SHU placement; or

(B) ICC identifies an inmate who has a substantial disciplinary history consisting of no less than three SHU terms within the past five years and substantial justification for the need for continued SHU placement due to the inmate's on-going threat to safety and security of the institution and/or others, and the inmate cannot be housed in less restrictive housing; or

(C) ICC identifies an inmate who is currently serving an administrative SHU term and continued retention is required, may shall refer the case to the DRB when: ~~evidence exists supporting an on-going threat to the security of the institution or the safety of others.~~ 1) the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or safety of others and substantial justification has been articulated of the need for continued SHU placement; or 2) the inmate has a substantial disciplinary history consisting of no less than three SHU terms within the past five years and substantial justification has been articulated for the need for continued SHU placement due to the inmate's ongoing threat to the safety and security of the institution and/or others, and the inmate cannot be housed in a less restrictive environment.

(D) ~~The DRB shall articulate a substantial justification for the need for SHU placement due to the inmate's ongoing threat to safety and security of the institution and/or others, and that the inmate cannot be housed in a less restrictive environment.~~

(2) Determinate SHU. An inmate shall be assessed a determinate SHU term when the inmate is found guilty of a Rules Violation Report for an offense specifically listed in subsection 3341.9(e) and ICC has determined the inmate presents a threat to the security of the institution and/or the safety of others.

(A) A determinate SHU term shall be computed using the SHU Term Assessment Chart, pursuant to subsection 3341.9(e), utilizing the SHU Term Assessment Worksheet. All determinate SHU terms shall be assessed at the expected term for the offense, in the absence of mitigating or aggravating factors, as listed in subsections 3341.9(b) & (c).

(B) The SHU term effective date shall be the date of placement in administrative segregation or upon the date of discovery of the information leading to the disciplinary charge, whichever occurs first.

(C) Inmates shall be assessed a determinate SHU term for serious misconduct occurring while on administrative SHU status provided the inmate is found guilty of an offense listed in subsection 3341.9(e). The administrative SHU status shall run

concurrently to any/all assessed Determinate SHU terms, whether active or suspended, and upon the MERD the administrative status will continue.

(D) Only rule violations occurring within the past 5 years on an inmate's current CDCR number which warrant a SHU assessment shall be addressed by ICC and reviewed by the CSR. ICC shall assess the appropriate SHU term per 3341.9(e) and one of the following actions:

1. Impose/Re-impose
2. Impose/Re-impose and Suspend
3. Impose/Re-impose and Suspend in Entirety
4. Commute

Re-imposed SHU terms shall be addressed in accordance with section 3341.6.

(3) SDP in SHU

(A) The inmate is a validated STG affiliate and placed in the SDP by ICC or DRB in accordance with the following:

1. STG-I Member, Associate, or Drop-out: the validated affiliate, being found guilty of STG related behavior, as identified in section 3378.4(a), STG Disciplinary Matrix and which is also identified in section 3341.9(e) SHU Term Assessment Chart, within the preceding two (2) years. For the Drop-out affiliate, the behavior must identify the inmate is a STG member or associate of the same STG with which the inmate was previously validated.

2. STG-II Member, Associate, or Drop-out: the validated affiliate being found guilty of two serious STG related rules violation reports as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.9(e) SHU Term Assessment Chart within the preceding four (4) years, and upon completion of the most recent expired MERD. For the Drop-out affiliate, the behavior must identify the inmate is a STG member or associate of the same STG with which the inmate was previously validated.

(d) SHU terms shall be served in a departmentally approved SHU, or a facility specifically designated for that purpose, except under those circumstances where the term may be served in ASU or PSU. SHU terms may also be served in secure inpatient medical or mental health settings, when deemed clinically necessary. Inmates who are serving a SHU term in ASU shall be reviewed by a classification committee pursuant to section 3341.8.

(e) SHU classification decisions, including notification of the reasons for a classification hearing, SHU term assessment, housing restrictions, and yard assignment shall be documented on the CDC Form 128-G (Rev. 10/89), Classification Chrono, with a copy provided to the inmate.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).

§ 3341.5. Suspending Security Housing Unit Terms.

Subsections 3341.5(a) through 3341.5(c) are deleted.

~~(a) ICC may commute or suspend any portion of a Determinate SHU term. Once commuted, the term shall not be re-imposed. ICC may suspend a Determinate and/or end an Administrative SHU term any time it is determined an inmate no longer poses a threat to the safety of any person or the security of the institution. Additionally, ICC may suspend a Determinate or end an Administrative SHU term for purposes of inpatient medical or mental health treatment when deemed clinically necessary. Any ICC action to suspend or commute a SHU term shall clearly articulate substantive justification for the decision on the CDC Form 128-G (Rev. 10/89).~~

~~(1) ICC shall suspend any portion of a SHU term during any time the inmate was not on segregation status.~~

~~(2) The remaining time of the suspended SHU term continues to run while the inmate is no longer in segregated housing as long as the inmate remains in custody.~~

~~(3) The ICC action to suspend a SHU term may require CSR review for placement consideration and/or audit. ICC has the authority to release an inmate to a GP or ASU within the same institution pending placement review, as appropriate. If multiple SHU terms are suspended, the SHU term with the most distant MERD need only be addressed. In this circumstance, any remaining SHU terms with unexpired MERD's shall be considered suspended.~~

~~(b) If an inmate paroles while serving a determinate SHU term, the remaining time on the SHU term is automatically suspended and any remaining time stayed. Any remaining SHU time shall be recalculated and assessed should the inmate return to custody, so long as the inmate maintains the same CDCR identification number.~~

~~(c) If an inmate paroles prior to assessment of a determinate SHU term, the ICC shall address the unresolved term should the inmate return to CDCR custody with the same CDCR identification number, in accordance with subsection 3341.3(a)(6).~~

Subsections 3341.5(a) through 3341.5(a)(3) are adopted to read:

(a) Determinate SHU Terms.

(1) ICC may commute or suspend any portion of a Determinate SHU term. Once commuted, the term shall not be re-imposed. ICC may suspend a Determinate SHU term any time it is determined an inmate no longer poses a threat to the safety of any person or the security of the institution. Additionally, ICC may suspend a Determinate SHU term for purposes of inpatient medical or mental health treatment when deemed clinically necessary. Any ICC action to suspend or commute a Determinate SHU term shall clearly articulate substantive justification for the decision on the CDC Form 128-G (Rev. 10/89) Classification Chrono.

(A) ICC shall suspend any portion of a SHU term during any time the inmate was not on segregation status.

(B) The remaining time of the suspended SHU term continues to run while the inmate is no longer in segregated housing as long as the inmate remains in custody.

(C) The ICC action to suspend a SHU term may require CSR review for placement consideration and/or audit. ICC has the authority to release an inmate to a GP or ASU within the same institution pending placement review, as appropriate. If multiple SHU terms are suspended, the SHU term with the most distant MERD need only be addressed. In this circumstance, any remaining SHU terms with unexpired MERD's shall be considered suspended.

(2) If an inmate paroles while serving a determinate SHU term, the remaining time on the SHU term is automatically suspended and any remaining time stayed. Any remaining SHU time shall be recalculated and assessed should the inmate return to custody, so long as the inmate maintains the same CDCR identification number.

(3) If an inmate paroles prior to assessment of a determinate SHU term, the ICC shall address the unresolved term should the inmate return to CDCR custody with the same CDCR identification number, in accordance with subsection 3341.3(a)(6).

Subsections 3341.5(b) through 3341.5(b)(4) are adopted to read:

(b) Administrative SHU terms.

(1) ICC may end an Administrative SHU term for purposes of inpatient medical or mental health treatment when deemed clinically necessary.

(2) ICC shall refer the case to DRB if a determination is made that an inmate no longer poses a threat to the safety of any person or the security of the institution. DRB shall assess the inmate's case factors and determine appropriate housing.

(3) ICC shall refer the case to DRB if a determination is made that retention on Administrative SHU status is warranted. DRB shall assess the inmate's case factors and disciplinary behavior and articulate the basis for the need to continue the inmate on Administrative SHU status in accordance with section 3341.3(c).

(4) If an inmate paroles while on an administrative SHU term, the SHU term will be stayed. If the inmate returns to CDCR custody, the administrative SHU term will be addressed in accordance with section 3341.6(c).

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; and *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995).

§ 3341.6. Re-imposed Security Housing Unit Terms.

Subsections 3341.6(a) through 3341.6(a)(2) remain unchanged.

Subsection 3341.6(b) is amended to read:

~~(b) If an inmate paroles with an active Determinate or Administrative SHU term and subsequently returns to CDCR custody as a parole violator or with a new prison commitment under the same CDCR number, ICC shall evaluate the case Determinate SHU term for re-imposition. ~~Re-imposed Administrative SHU terms shall be in accordance with subsection (a)(1), except as otherwise provided in subsection 3341.6(c)(1)-(3)(A).~~ Re-imposed Determinate SHU terms shall be calculated utilizing the SHU Term Assessment Worksheet. Any unexpired SHU term shall be recalculated and addressed by ICC. If multiple CSR approved SHU terms are eligible for re-imposition, the SHU term with the most distant MERD need only be addressed. In this circumstance, any remaining SHU terms with unexpired MERD's shall be considered re-imposed. ICC retains the authority to impose or suspend any remaining time based upon the safety of persons or security of the institution.~~

Subsections 3341.6(b)(1) through 3341.6(b)(3) remain unchanged.

Subsections 3341.6(c) through 3341.6(c)(3) are deleted.

~~(c) A validated STG affiliate who paroled or discharged from CDCR jurisdiction and returns to custody shall be addressed as follows:~~

~~(1) An inmate who previously paroled or was discharged with Maximum (MAX) custody while pending validation and is returned to CDCR's custody shall be placed in ASU. The STG Investigator shall obtain the validation package to determine the status of validation and housing at time of parole/discharge. The validation process shall be~~

completed, as necessary. After review by the STG Unit Classification Committee is completed, the inmate will be referred to ICC for appropriate housing determination.

~~(2) A validated STG affiliate who previously paroled or was discharged with MAX custody and is returned to CDCR's custody shall be placed in ASU and afforded all procedural safeguards for segregated inmates. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC, as appropriate.~~

~~(A) While outside of CDCR jurisdiction, the inmate had no documented STG related behavior, ICC shall place the inmate at the beginning of the step that they were in at the time of parole/discharge.~~

~~(B) While outside of CDCR jurisdiction, the inmate had a documented STG related conviction or good cause finding by a court, ICC shall place the inmate in Step 1 of the SDP.~~

~~(3) A validated STG affiliate who previously paroled or was discharged and was designated either inactive, inactive monitored, monitored, or dropout status and returns to the custody of the CDCR shall be assigned housing based upon current case factors. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC, as appropriate. (A) ICC shall complete a case by case criteria review to determine if placement into the SDP Step 1 is appropriate. This review shall consist of commitment offense or good cause finding circumstances which were specifically related to the same STG with which the inmate was previously validated and occurred within the past four years from the date of arrest for this conviction or good cause finding.~~

Subsections 3341.6(c) through 3341.6(d)(5) are added to read:

(c) An inmate who paroles with an active Administrative SHU term and subsequently returns to CDCR custody under the same CDCR number shall be addressed as follows:

(1) An inmate who previously paroled with MAX custody and is returned to CDCR's custody shall be placed in ASU and afforded all procedural safeguards for segregated inmates. ICC shall determine if the criteria for placement on Administrative SHU status is met, in accordance with section 3000. If ICC determines that: 1) safety of others, and substantial justification has been articulated of the need for Administrative SHU placement; or 2) substantial disciplinary history consisting of no less than three SHU terms within the past five years and substantial justification has been articulated of the need for Administrative SHU placement, the inmate shall be referred to the DRB.

(d) A validated STG affiliate who previously paroled or was discharged with MAX custody from the SHU Step Down Program (SDP) or ASU due to high control release and is returned to CDCR's custody shall be addressed as follows:

(1) The inmate will be placed in ASU and afforded all procedural safeguards for segregated inmates.

(2) If the inmate has been discharged/paroled from CDCR for more than 5 years or if he is returning with a new CDCR number, he shall not be required to complete the SDP and will be referred to ICC for appropriate housing.

(3) If the inmate paroled from Steps 1 – 3 of the SDP, has been out of CDCR custody for less than 5 years, and is returning with the same CDCR number, he shall be referred by ICC, as appropriate, to the Classification Staff Representative for transfer endorsement to the SHU SDP. The inmate will be assigned to the beginning of the next

successive step from which he left to ensure that he does not spend more than 6 months in the assigned step.

(4) If the inmate paroled from Step 4 of the SDP, he will not be returned to the SDP; instead ICC will determine appropriate housing for the inmate based on current case factors and placement score.

(5) Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or within a general population setting.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995); and *Castillo v. Alameida, et al.*, (N.D. Cal., No.C94-2847).

§ 3341.8. Security Housing Unit/Psychiatric Services Unit Classification Hearings

Subsection 3341.8 Presentence remains unchanged.

Subsections 3341.8(a) through 3341.8(a)(2) are amended to read:

(a) SHU/PSU Status Reviews. Except as otherwise provided, inmates on Administrative SHU status, shall be reviewed by the ICC no less frequently than every 180 days for release consideration to a GP with referral to the DRB on an annual basis. Inmates on Determinate SHU status shall be reviewed by the ICC no less frequently than every 180 days following their initial SHU annual review for release consideration to a GP. The ICC review shall include, but not be limited to, the availability of alternative housing, demonstrated evidence of behavioral change and expressed willingness to conform to CDCR rules in accordance with California Code of Regulations, Division 3, Title 15. A validated STG affiliate assigned to a security housing unit to participate in the Step Down Program (SDP) shall be reviewed by a classification committee on a schedule that is consistent with section 3378.3(b)(1) through 3378.3(b)(3) for consideration of program participation or movement to the next step of the SDP.

(1) Any inmate expected to be retained on SHU status beyond 360 days shall be provided a CDC Form 114-D documenting the SHU annual review, which shall be issued in accordance with section 3338(a)(1)-(3), 3338(b) and 3338(c), prior to the inmate's SHU annual review. ~~Administrative SHU inmates shall require CSR referral and placement review following each SHU annual review.~~

(2) An inmate shall not be retained on SHU status beyond the expiration of a determinate term or beyond 360 days, ~~unless the ICC has determined before such time that continuance in the SHU is required for one of the following reasons:~~ with an unexpired MERD, unless the ICC has determined that continuance in the SHU is required.

Subsections 3341.8(a)(2)(A) through 3341.8(a)(2)(C) are deleted.

~~(A) The inmate has an unexpired MERD from SHU/PSU.~~

~~(B) Release of the inmate would severely endanger the lives of inmates, staff, or the security of the institution.~~

~~(C) The inmate has voluntarily requested continued retention in segregation and the ICC has substantively justified retention.~~

Existing Subsection 3341.8(a)(3) is renumbered to 3341.8(a)(4) and is amended.

New subsection 3341.8(a)(3) is adopted to read:

(3) Administrative SHU inmates shall require referral to the DRB for annual assessment of the inmate's case factors and disciplinary behavior. The DRB shall articulate the basis for the need to continue to retain the inmate on Administrative SHU status in accordance with section 3341.3(c).

Subsection 3341.8(a)(3) is renumbered to 3341.8(a)(4) and is amended to read:

~~(34) A validated STG affiliate who is requesting to debrief from his STG shall be considered for release from a SHU, as provided above, after the inmate is verified as a STG dropout through a debriefing process. as follows:~~

Subsections 3341.8(a)(4)(A) through 3341.8(a)(4)(D) are adopted to read:

(A) If serving an administrative SHU term and DRB did not maintain transfer control, shall be referred to ICC for transfer consideration to the Debrief Processing Unit (DPU) in accordance with section 3378.5.

(B) If serving an administrative SHU term and DRB maintained transfer control, the inmate shall be referred to DRB for transfer consideration to the Debrief Processing Unit (DPU) in accordance with section 3378.5.

(C) If serving a determinate SHU term, the inmate will be retained in SHU. The debrief process will continue and upon resolution of the determinate SHU term, the inmate will be considered for transfer to the DPU in accordance with section 3378.5.

(D) If currently assigned to the SHU SDP, shall be referred to ICC for transfer consideration to the DPU in accordance with 3378.5.

Subsection 3341.8(a)(4) is renumbered to 3341.8(a)(5) and is amended to read:

~~(45) A validated STG affiliate shall be considered for released from SHU upon successful completion of Steps 1 through 4 of the STG SHU Step Down Program (SDP), pursuant to section 3378.3. Successful inmates Inmates shall be transferred to the general population of a Level IV facility for a 12 month period of observation that shall be considered Step 5 of the SDP. Upon completion of Step 5, the inmate shall be housed in a facility commensurate with his or her safety needs. In the absence of safety needs, the inmate shall and be housed in a facility consistent with his or her case factors and classification placement score.~~

Existing subsection 3341.8(a)(5) is deleted.

~~(5) An affiliate on monitored status, inactive monitored status, inactive status, or validated as a dropout of a STG and placed in general population may be returned to segregation based upon STG activity/behavior pursuant to section 3378.4(c) identifying the inmate as a currently active affiliate of the STG with which the inmate was previously validated. Current activity is defined as any documented STG activity or behavior within the past four (4) years. The procedures described in Sections 3335 through 3345, and in Article 10, Classification, shall be utilized for the removal of the offender from the general population, the review of the initial segregation order, and all periodic reviews of the STG SHU term~~

Subsections 3341.8(a)(6) through 3341.8(a)(7) are added to read:

(6) A validated STG affiliate who has not successfully completed Steps 1 through 4 of the SHU SDP shall be transferred to the RCGP pursuant to section 3378.3.

(7) A validated STG affiliate who has been found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports shall be transferred to the RCGP pursuant to section 3378.4.

Subsection 3341.8(b) is amended to read:

(b) Pre-MERD Hearing. A Pre-MERD hearing shall be held by ICC 120 days prior to the expiration of a the controlling MERD. The ICC review shall include, but not be limited to, the availability of alternative housing, demonstrated evidence of behavioral change and expressed willingness to conform to CDCR rules, as well as determination of the housing and program assignment following completion of the SHU term, or sooner, if appropriate. If the MERD was associated with a SHU term that had a STG nexus and the inmate is validated, the ICC shall consider transferring the inmate to the SHU SDP at the completion of the controlling MERD.

Subsections 3341.8(b)(1) through 3341.8(b)(2) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; *Castillo v. Alameida, et al.*, (N.D. Cal., No.C94-2847); *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F. 3d 1267 (9th Cir. 1997).

§ 3341.9. Security Housing Unit Term Calculation and Assessment

Subsections 3341.9(a) through 3341.9(d) remain unchanged.

Subsection 3341.9(d)(1) is added to read:

(1) CSR review and approval is required for SHU terms with an established STG nexus, as described in section 3378.4(a).

Subsection 3341.9(e) is amended to read:

(e) SHU Term Assessment Chart (Calculating determinate confinement to SHU).

Offense	TYPICAL TERM		
	Low	Expected	High
(1) Homicide:			
(A) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-inmate.	36	48	60
(B) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of an inmate.	24	36	48
(2) Violence Against Persons:			
(A) Battery on a non-inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids	18	30	42

capable of causing serious or mortal injury; or physical force causing serious injury.			
(B) Assault on a non-inmate with a weapon, capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.	9	15	21
(C) Rape, sodomy, or oral copulation on a non-inmate, or any attempt.	18	30	42
(D) Battery on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury or physical force causing serious injury.	12	18	24
(E) Assault on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.	6	9	12
(F) Rape, sodomy, or oral copulation of an inmate accomplished against the inmate's will, or any attempt.	12	18	24
(G) Battery on a non-inmate without serious injury.	6	12	18
(H) Assault on a non-inmate.	3	6	9
(I) Battery on an inmate without serious injury. (2 or more offenses within a 12 month period or 1 with direct STG nexus)	2	4	6
(3) Threat to Kill or Assault Persons:			
(A) To take or use a non-inmate as a hostage.	18	30	42
(B) Threat of violence to non-inmate.	2	5	8
(4) Possession of a Weapon:			
(A) Possession of a firearm or possession or manufacturing of an explosive device.	18	30	42
(B) Possession or manufacture/manufacturing of a Weapon including materials altered from their original manufactured state or purpose and which can be made into a weapon-other than a firearm or explosive device and which has been manufactured or modified so as to have the obvious intent or capability of inflicting serious injury, and which is under the immediate or identifiable control of the inmate.	4	8	12

(5) Distribution of Controlled Substances as defined in Section 3000.	6	12	18
(6) Escape:			
(A) With force or attempted escape with force against a person.	12	24	36
(B) Or attempted escape from any departmental prison or institution other than a camp, MSF, or reentry facility.	6	12	18
(7) Disturbance , Riot, or Strike:			
(A) Leading a disturbance, riot, or strike	6	12	18
(B) Active participation in a disturbance, riot, or Strike (2 or more offenses within a 12 month period or 1 with direct STG nexus).	3	6	9
(C) Inciting conditions likely to threaten institutional security	3	6	9
(8) Harassment: a willful course of conduct that terrorizes a specific person, group, or entity either directly or indirectly	6	12	18
(9) <u>STG Disruptive Behavior:</u>			
(A) <u>Acting in a leadership role by directing or controlling STG behavior that is a behavior listed in this SHU Assessment Chart</u>	<u>6</u>	<u>12</u>	<u>18</u>
(B) <u>Recruiting inmates to become an STG affiliate or to take part in STG activities that is a behavior listed in this SHU Assessment Chart.</u>	<u>3</u>	<u>6</u>	<u>9</u>
(C) <u>Acting in a leadership role to generate, move, or facilitate assets or proceeds as a result of or in support of prohibited STG business dealings</u>	<u>3</u>	<u>6</u>	<u>9</u>
(9 10) Theft or destruction of State property by any means where the loss or potential loss exceeds \$10,000 or threatens the safety of others.	2	8	12
(4 11) Extortion or Bribery:			
(A) Extortion or bribery of a non-inmate.	4	8	12
(B) Extortion or bribery of an inmate.	2	3	4
(4 12) Sexual Misconduct:			
(A) Indecent Exposure	3	6	9
(B) Sexual Disorderly conduct (two or more offenses within a twelve month period).	3	6	9
(4 23) Except as otherwise specified in this			

section or identified as an assault, proven attempts to commit any of the above listed offenses shall receive one-half (1/2) of the term specified for that offense.

(~~4314~~) Any inmate who conspires to commit or solicits another person to commit any of the offenses above shall receive the term specified for that offense.

Subsections 3341.9(f) through 3341.9(f)(3) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 530, 532, 646.9, 653m, 932, 2081, 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; *Castillo v. Alameida, et al.*, (N.D. Cal., No.C94-2847); *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F. 3d 1267 (9th Cir. 1997).

§ 3375. Classification Process.

Subsections 3375(a) through 3375(f)(7) remain unchanged.

Subsection 3375(g) is amended to read:

(g) Every decision of a classification committee shall be documented on a CDC Form 128-G, Classification Chrono (Rev. 10/89). ~~The Security Threat Group Unit Classification Committee shall be documented on a CDCR Form 128-G1 (11/13), Security Threat Group Unit Classification Committee Results of Hearing, which is incorporated by reference.~~

Subsections 3375(g)(1) through 3375(l) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1203.8, 3020, 5054, 5068 and 11191, Penal Code; Sections 8550 and 8567, Government Code; and Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Wright v. Enomoto* (1976) 462 F.Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).

§ 3375.1. Inmate Placement.

Subsections 3375.1(a) through 3375.1(a)(4)(A)2.(vi) remain unchanged.

Subsection 3375.1(a)(4)(A)3. is amended to read:

3. Inmates released from SHU or a Psychiatric Services Unit (PSU) after serving an Administrative SHU Term shall be reviewed by ICG DRB, in accordance with Section 3376.1(d) for 180 design or 270 design appropriate housing. ~~Inmates excluded from Level IV 270 design housing shall be excluded for two years from the date of the ICG action.~~

Subsections 3375.1(a)(4)(A)4. through 3375.1(b)(2) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3020, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.

§ 3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(b)(10) remain unchanged. Subsection 3375.2(b) is shown to provide context.

(b) The following three-letter codes are used to indicate those administrative or irregular placement conditions known as administrative determinants, which may be imposed by Departmental officials to override the placement of an inmate at a facility according to his/her placement score.

Subsections 3375.2(b)(11) through 3375.2(b)(30) are amended to read:

~~(11) INA. Documentation establishes that the inmate's inactive STG status may require special attention or placement consideration.~~

~~(12) IMO. Inactive-Monitored. Documentation establishes that the inmate was released from SHU concurrent with implementation of the STG SDP hearing and requires special attention or placement considerations.~~

(131) HOL. Hold, warrant or detainer is likely to be exercised.

(142) LIF. Inmate is serving a life sentence and requires placement in a facility with a security level higher than that indicated by his/her placement score.

(153) MED. Inmate's medical condition requires treatment or continuing medical attention not available at all facilities.

~~(16) MON. Monitored. Documentation establishes that the offender's monitored status reflects completion of the STG SDP and requires special attention or placement considerations.~~

(174) OUT. Inmate requires placement at a specific facility for an out-to-court appearance. This factor shall also be used when a releasing authority appearance is nearing.

(185) POP. Shall be used only by a CSR to indicate that no beds presently exist at a facility with a security level that is consistent with the inmate's placement score.

(196) PRE. The short time remaining to serve limits or otherwise influences placement or program options for the inmate.

~~(2017) PSY. Inmate's psychological condition requires special treatment or may severely limit placement options. This factor shall also be used for those inmates who are designated as Category B.~~

~~(2418) PUB. Shall be used only by a CSR to indicate an inmate is identified as a Public Interest Case as defined in section 3000.~~

~~(2219) REN. Inmate is currently endorsed to or requires transfer to a Reentry Hub program and a Reentry Hub program is not available at a facility with a security level which is consistent with the inmate's placement score.~~

(230) SCH. Inmate is involved in an academic program which is not available at a facility with a security level that is consistent with his/her placement score.

(21) SDP. Step Down Program. Shall be used to identify an inmate who is currently assigned to the Security Threat Group (STG) Step Down Program (SDP) or who has

been assigned in the SDP in the past. This designation shall be assigned upon the inmate's assignment to the SDP and shall be retained upon his transition to general population housing after completion of the SDP. This designation will remain assigned while the validation remains current.

(242) SEC. Shall be used only by a CSR to indicate that the inmate has been designated as a Security Concern by an ICC and requires Close Custody.

(253) SEX. Inmate has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.

(264) SOR. Inmate's bisexual or homosexual orientation may require special placement.

(25) ST1. Security Threat Group-I. Documentation establishes that the inmate's STG-I designation may require special attention or placement consideration, while the validation remains current.

(276) STG2. Security Threat Group-II. Documentation establishes that the inmate's STG-II designation may require special attention or placement consideration, while the validation remains current.

(287) TIM. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that which is consistent with his/her placement score.

(298) VIO. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under Penal Code section 667.5(c), a felony conviction or equivalent finding for Penal Code section 192(b), a felony or misdemeanor conviction or equivalent finding for Penal Code section 422 or 646.9, or a guilty finding for Division A-1 or A-2 RVR offense that is the equivalent of a Penal Code section 667.5(c) offense which occurred on or after February 20, 2017, which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by his/her placement score. For the purpose of this subsection, an equivalent finding means any finding specified within subsections 3375.2(b)(29)(A) through 3375.2(b)(29)(C). For the purpose of this subsection, a case-by-case review for VIO means a classification committee action in which the committee conducting the review examines the totality of the inmate's case factors including, but not limited to: the circumstances of the offense, extent of injury to the victim(s), rationale for committing the offense, criminal intent versus neglect, history of ~~committing~~ committing similar acts, and the safety of the public, staff, and other inmates.

Newly renumbered subsections 3375.2(b)(28)(A) through (b)(29)(J)8. remain unchanged. (VIO)

(3029) VOC. Inmate is involved in a Career Technical Education program, also referred to as a vocational program, which is not available at a facility with a security level which is consistent with the inmate's placement score.

(340) WOR. Inmate has a work skill in a critical trade which warrants special placement consideration.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3450, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Wright v. Enomoto* (N.D. Cal. 1976) 462 F. Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.

§ 3376. Classification Committees.

Subsections 3376(a) through Subsection 3376(c)(4)(A) remain unchanged.

Subsection 3376(c)(4)(B) is amended to read:

(B) Correctional Counselor II or alternate (Recorder).

Subsections 3376(c)(4)(C) through 3376(d)(2)(D) remain unchanged. Subsection 3376(d)(2) is shown to provide context.

(2) Unit Classification Committees shall:

Subsection 3376(d)(2)(E) is added to read:

(E) Review confidential information to ensure the standards for confidential information have been met, in accordance with section 3321.

Subsections 3376(d)(3) through 3376(d)(3)(D) remain unchanged. Subsection 3376(d)(3) through 3376(d)(3)(D) are shown to provide context.

(3) Institution and Facility Classification Committees shall:

(D) Make referrals and recommendations through the chief, classification services, for cases requiring Departmental Review Board (DRB) decisions.

Subsections 3376(d)(3)(D)1. through 3376(d)(3)(D)4. are added to read:

1. Any offender who is denied housing in a General Population (GP) setting based on possible safety concerns shall have an investigation into the inmate's safety concerns completed by designated staff. All confidential information referenced in the safety investigation shall be disclosed to the offender utilizing Confidential Information Disclosure Form(s) in accordance with section 3321.

2. Offenders shall be given at least 72-hours advance notice of the safety concern interview. The inmate shall be provided with disclosures of confidential information, and/or copies of non-confidential documents at least 72-hours prior to an interview with the inmate. The interview with the Investigator may be held earlier if the offender waives, in writing, the 72-hour preparation period.

3. During the face to face interview with the investigator, the subject will be given a meaningful opportunity to be heard in regard to the information used in the validation of safety concerns. The inmate will be assigned a Staff Assistant when warranted and effective communication will be addressed. The inmate will be allowed the opportunity to refute any information, provide clarification, or provide additional information as to why the disclosed information may no longer be accurate.

4. Upon conclusion of the investigation, the safety concern evaluation shall be forwarded to classification staff for an ICC hearing. If applicable, the investigator's safety closure report must identify the information used as evidence to support that the prior conflict(s) included in the safety investigation no longer pose a threat to the inmate.

Subsection 3376(d)(3)(E) remains unchanged.

Subsections 3376(d)(3)(F) through 3376(d)(5)(D) are amended to read:

(F) Review confidential information to ensure the standards for confidential information have been met, in accordance with section 3321.

(FG) For validated Security Threat Group (STG) cases:

1. Review the Validation Package and the CDC Form 128-G, Classification Chrono (Rev. 10/89) CDCR Form 128-G1 (11/13), Security Threat Group Unit Classification Committee Results of Hearing, which is incorporated by reference.

2. Determine a validated STG inmate's housing and program needs. If the inmate meets the criteria for placement in the SHU Step Down Program (SDP), in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting in accordance with Section 3378.4(e).

(H) Evaluate the need for placement in the SDP when the Minimum Eligible Release Date (MERD) was associated with a Security Housing Unit (SHU) term that is STG related and the inmate is validated.

(I) Refer the case to the DRB, upon completion of a determinate SHU term when ICC determines that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others.

(J) Refer the case to the DRB, when an inmate with a substantial disciplinary history consisting of no less than three SHU terms within the past five years, substantial justification exists for the need for continued SHU placement due to the inmate's on-going threat to safety and security of the institution and/or others, and the inmate cannot be housed in less restrictive housing.

(4) Camp classification committees shall perform all functions designated above for unit and initial classification committees.

(5) ~~Security Threat Group~~ STG Unit Classification Committee shall:

(A) Review all STG validation packages for accuracy, compliance, and to ensure due process requirements have been met.

(B) Review Dropout status affiliate's new disciplinary behavior for documented nexus to STG behavior as noted in the RVR, or other source items of intelligence.

(C) Review information or intelligence received from outside law enforcement agencies ~~or which occurred outside CDCR jurisdiction to ensure disciplinary processes or formal documentation were applied~~ formal documentation is completed and/or the disciplinary process is initiated, when appropriate.

(D) Refer validated STG cases to ICC for placement consideration in the Step Down Program when placement criteria is met.

Subsection 3376(d)(5)(E) is added to read:

(E) Review confidential information to ensure the standards for confidential information have been met, in accordance with section 3321.

Note: Authority cited: Sections 3303 and 3309, Welfare and Institutions Code; and Sections 5058 and 6252, Penal Code. Reference: Sections 2933, 5054 and 5068, Penal Code.

§ 3376.1. Departmental Review Board.

Subsections 3376.1 Presentence through 3376.1(d)(7) remain unchanged.

Subsection 3376.1(d) is shown to provide context.

(d) Referrals shall be made to the DRB when:

Subsection 3376.1(d)(8) through 3376.1(d)(10) are deleted.

~~(8) An inmate has completed Steps 1-4 of the Step Down Program and the institution head believes a transfer to an alternate Level IV institution or out-of-level placement is warranted, the institution head will refer the case to the DRB for decision.~~

~~(9) The UCC has recommended that an inmate be validated as a STG-I member, the ICC shall ensure there is sufficient evidence to warrant validation at the level of member. ICC will review the validation documents and all other case factors in their determination of appropriate housing. Any disagreement by the ICC with a STG-I member's validation and/or placement into the SDP shall be referred to the DRB for resolution.~~

~~(10) The ICC has evaluated and determined a validated affiliate has demonstrated that they are not progressing through Steps 1 or 2 of the SDP, and/or case factors such as medical or mental health needs have changed, which would warrant consideration of alternate custody/housing. DRB will conduct a case-by-case review of all case factors to determine if continued SHU placement is warranted or if alternate placement options are appropriate.~~

Subsections 3376.1(d)(8) through 3376.1(d)(10) are added to read:

(8) An institution head determines there is a substantial threat to the inmate's personal safety, should he/she be released to the general population.

(A) Any offender who is denied housing in a General Population (GP) setting based on possible safety concerns shall have an investigation into the inmate's safety concerns completed by designated institution staff.

(B) Upon conclusion of the investigation, the safety concern evaluation shall be reviewed by ICC and referred to the DRB in accordance with section 3376(d)(3)(D)1.

(9) An institution head determines upon completion of a determinate SHU term, that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others.

(10) An institution head determines an inmate has a substantial disciplinary history, consisting of no less than three SHU terms within the past five years and cannot be housed in a less restrictive environment.

Subsection 3376.1(e) is renumbered to 3376.1(h) and the text remains unchanged.

Subsections 3376.1(e) through 3376.1(g) are adopted to read:

(e) The DRB retains discretion in determining appropriate housing for inmates against whom there is a substantial threat to the inmate's personal safety, should they be released to general population housing, where the DRB determines a preponderance of evidence exists to require placement in alternate appropriate non-SHU, non-ASU housing commensurate with the inmate's current case factors.

(f) The DRB may retain an inmate in the SHU on Administrative SHU status if they have determined that case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others, and substantial justification has been articulated of the need for SHU placement.

(g) An annual assessment of the inmate's case factors and disciplinary behavior associated with the current Administrative SHU status is mandated.

Subsection 3376.1(e) is renumbered to 3376.1(h) and the text remains unchanged.

(eh) Decisions of the DRB shall be in writing and implemented within 30 calendar days after the decision is made.

Subsection 3376.1(i) is adopted to read:

(i) An inmate may appeal an ICC decision to the DRB when ICC determines placement in a Restricted Custody General Population (RCGP) facility is appropriate based on the inmate being found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports while housed in the SHU SDP. The DRB will review the inmate's disciplinary history and determine whether removal from the SHU SDP and transfer to the RCGP was appropriate. A hearing before the DRB is not required for a determination on such an appeal.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 5068 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Sandin v. Connor* (1995) 515 U.S. 472; and *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146.

§ 3378. Security Threat Group Identification, Prevention, and Management.

Subsections 3378(a) through 3378(b)(3) remain unchanged.

Subsection 3378(c) is amended to read:

(c) Gang STG related involvement allegations shall be investigated by a gang STG coordinator/investigator or their designee.

Subsection 3378(d) is added to read:

(d) The terms STG nexus and STG related are used synonymously in this section.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

§ 3378.1. Security Threat Group Certification Process

Subsections 3378.1 Presentence through 3378.1(c) remain unchanged.

Subsection 3378.1(c) is shown to provide context.

(c) Security Threat Group Designation Levels.

Subsections 3378.1(c)(1) through 3378.1(c)(2) are amended to read:

(1) Security Threat Group-I consists of groups, gangs, and/or historically based prison gangs that the CDCR has determined to be the most severe threat to the security of the institutions and communities based on a history and propensity for violence and/or influence over other groups. ~~Based upon their individual threat, clandestine operations, and/or influence over other STG affiliates, inmates who are validated as STG-I members may be placed in the Step Down Program (SDP) and housed in a SHU based solely upon their validation. Validated STG-I associates will normally remain housed in~~

~~general population, or similar specialized housing, unless confirmed STG behavior, as defined in section 3000, are present. If these behaviors are present, the STG-I associate will be considered by the Institution Classification Committee (ICC) for placement into the SDP pursuant to section 3378.4.~~

(2) Security Threat Group-II consists of other groups or gangs such as street gangs or disruptive groups comprised of members and associates who may be determined to be in a subservient role to the more dominant STG-I groups. ~~Validated STG-II members or associates will remain housed in general population, or similar specialized housing, unless two or more occurrences of serious STG behaviors, which are reflected in section 3341.5(c)(9) SHU Term Assessment Chart, are present. If there is confirmed STG behavior present, the STG-II member or associate will be considered by ICC for placement into the SDP pursuant to section 3378.4.~~ Groups identified as STG-II are not required to be certified, as described in this section.

Subsections 3378.1(d) through 3378.1(d)(3)(B) remain unchanged.

Subsection 3378.1(d)(3)(C) is amended to read:

(C) OCS shall document the results of the re-certification review on a STG Administrative Directive and route to the Secretary, CDCR, and shall request either re-certification or decertification, based upon the level of threat and STG activity behavior noted from the group during the previous four years.

Subsection 3378.1(e) remains unchanged. Subsection 3378.1(e) is shown to provide context.

(e) Requests for Recognition of a Group at the STG-II level shall include the following:

Subsection 3378.1(e)(1) is amended is read:

(1) Institution Staff or Division Staff shall prepare a ~~memorandum~~ CDCR Form 128-B8, Security Threat Group Certification Worksheet (10/17), which is incorporated by reference requesting that a STG Threat Assessment be initiated of the identified group. The CDCR Form 128-B8 ~~memorandum~~ shall be routed through the chain of command prior to submission to OCS.

Subsections 3378.1(e)(2) through 3378.1(f)(4) remain unchanged.

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

§ 3378.2. Security Threat Group Validation Process

Subsections 3378.2 Presentence through 3378.2(a) remain unchanged.

Subsection 3378.2(b) is amended to read:

(b) The validation process delineates the formal objective criteria utilized by an STG Investigator to determine an individual's affiliation with a certified or recognized STG. Each factor is determined by a weighted point system in order to conclude whether the information taken as a whole is sufficient to establish a nexus to the STG.

Validation process for identifying and documenting STG members, associates, or suspects, which are defined as follows:

Member: Any offender or any person who, based on documented evidence, has been accepted into membership by a STG. STG members will be identified by the STG Investigator through the validation process, reviewed by OCS, and affirmed by the STG Unit Classification Committee.

Initial Validation of an offender as a member requires at least three (3) independent source criteria items with a combined value of 10 points or greater coupled with information/~~activity~~ behavior indicative of a member.

Validation of an offender as a member of a STG-I shall also require that at least one of the criteria source items be a direct link to a current or former validated member or associate of the STG, or to an offender or any person who is validated by the Department within six months of the established or estimated date of ~~activity~~ behavior identified in the evidence considered.

An upgrade from associate to member requires at least three (3) independent source criteria items, that were not previously used in a validation, with a combined value of 10 points or greater coupled with at least three (3) of the items of information/~~activity~~ behavior being indicative of a member.

Associate: Any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. STG associates will be identified by the STG Investigator through the validation process, reviewed by OCS, and affirmed by the STG Unit Classification Committee. Initial validation of an offender as an associate requires at least three independent source criteria items with a combined value of 10 points or greater coupled with information/~~activity~~ behavior indicative of an associate.

Validation of an offender as an associate of a STG-I shall also require that at least one source criteria item be a direct link to a current or former validated member or associate of the STG, or to an offender or any person who is validated by the Department within six months of the established or estimated date of ~~activity~~ behavior identified in the evidence considered.

Suspect: Any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. The STG suspect is tracked by STG Investigative staff pending validation. Suspects have attained two or more points of validation and would not be officially validated but tracked for intelligence purposes. Source item information must be referred to the STG Investigator for evaluation and recorded on the CDCR Form 128-B3 (11/13), Security Threat Group Identification Score Sheet, which is incorporated by reference.

A direct link, as defined in Section 3000, may be established by unilateral action by either party or by the subject's possession of any item connecting the subject to a validated STG affiliate; or for purposes of establishing a direct link, it shall not be necessary for CDCR to demonstrate that the subject had knowledge, actual or implied, of the validated STG affiliate's STG involvement.

CDCR staff shall not place inmates into a Security Housing Unit (SHU), Administrative Segregation Unit (ASU), or the SDP solely on the basis of their validation status. Although placement into the ~~Security Housing Unit~~ SHU/Step Down Program (SHU/SDP) is based upon behavior with a nexus to a certified or recognized STG, validation of an STG affiliate can occur based upon the sole use of source criteria items or based upon a combination of source criteria items and STG behavior that is reported and adjudicated via the disciplinary process. The STG validation process may take into account source criteria items that may have occurred at any time in an individual's

personal STG history. If behavior is identified which violates section 3314 or 3315, it is staff's responsibility to ensure appropriate disciplinary procedures are applied. The determination for placement into the SHU/SDP by an Institution Classification Committee (ICC) must be based upon ~~serious~~ SHU eligible STG related behavior, except as provided for members in section 3378.2(e), ~~which occurred during the preceding four years upon expiration of the inmate's controlling projected/assessed SHU term consistent with section 3341.8(b) or 3378.4(b)(1),~~ and has been adjudicated through the inmate disciplinary process.

Validation Source Criteria is documented on the CDCR Form 128-B3 (11/13), Security Threat Group Identification Score Sheet, which is incorporated by reference. This document is completed by the STG Investigator.

Multiple sources providing information about a single STG related act or conduct shall constitute a single source item. One may support the other but will only count as one item toward the validation with the others listed as support documents.

Staff shall articulate the basis for determining the content or conduct at issue is STG related.

The source items shall be based on the following criteria:

Subsections 3378.2(b)(1) through 3378.2(b)(4) remain unchanged.

Subsection 3378.2(b)(5) is amended to read:

(5) Written Materials (Offender identified in written material not in his possession-Two Points; Personal Possession-Four Points): Any material or documents evidencing STG ~~activity~~ behavior such as the membership or enemy lists, roll call lists, constitutions, organizational structures, codes, training material, etc., of specific STGs or addresses, names, identities of validated STG affiliates. Although the item by itself may not evidence STG ~~activity~~ behavior, when considered with other STG ~~activity~~/behavior, it gives credence to a STG nexus. Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of affiliation with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

Subsection 3378.2(b)(6) remains unchanged.

Subsection 3378.2(b)(7) is amended to read:

(7) Staff Information (Four Points): Documentation of staff's visual or audible observations which reasonably indicate STG ~~activity~~ behavior as described in Subsections 3314 (a)(3)(L) and (M), Administrative Rules Violations, STG Contraband and Behavior; or Subsections 3315 (a)(3)(Z) and (AA), Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior. Staff shall articulate the basis for determining the content or conduct at issue is STG related. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

Subsections 3378.2(b)(8) through 3378.2(c) remain unchanged.

Subsection 3378.2(c)(1) is amended to read:

(1) All source criteria items referenced in the validation package shall be disclosed to the offender utilizing a CDCR Form 128-B4 (Rev. ~~06/14~~10/17), Evidence Disclosure and Interview Notification, which is incorporated by reference. Staff shall identify which of

the source items ~~is~~are being utilized as the direct link on the CDCR Form 128-B4. The identity of the individual being used as a direct link shall be disclosed unless it compromises the individual's safety or the safety of others. The offender shall be given copies of all non-confidential documents unless otherwise requested in writing by the offender. Confidential information used in the validation package shall be disclosed to the offender via a CDCR Form 1030 (Rev. 11/13), Confidential Information Disclosure Form, which is incorporated by reference.

Subsections 3378.2(c)(2) through 3378.2(c)(4) remain unchanged.

Subsections 3378.2(c)(5) through 3378.2(c)(7) are amended to read:

~~(D)~~(5) The interview shall be documented to include an evaluation and conclusion on each item for which the inmate has provided a rebuttal. The assigned staff shall record this information, via CDCR Form 128-B5 (~~44/43~~10/17), Security Threat Group Validation Chrono, which is incorporated by reference. If through the review and interview process, a source item is determined to not have merit, the assigned staff shall document that further investigation shows no merit on the CDCR Form 128-B5. Staff will provide a copy to the subject within 14 calendar days and prior to submission of the validation package to the OCS.

(6) The CDCR Form 128-B5 shall be submitted with the validation package to OCS for a recommendation to affirm or reject the validation.

(7) The recommendation for validation or rejection of evidence relied upon shall be documented on a CDCR Form 128-B2 (Rev. 06/14), Security Threat Group Validation/Rejection Review, which is incorporated by reference, and be forwarded to the facility or parole region of origin for processing. If the inmate is currently housed in a CDCR institution, the CDCR Form 128-B2 will be reviewed by the STG Unit Classification Committee. Upon receipt of the CDCR Form 128-B2, the Classification and Parole Representative or ~~Parole Administrator I~~, or their designee, shall clearly note in some permanent manner upon the face of every document whether or not the item met validation requirements.

Subsection 3378.2(d) is amended to read.

(d) STG Unit Classification Committee. The STG Investigator via the assigned counselor shall schedule the offender for appearance before the STG Unit Classification Committee within 30 days of receipt of the CDCR Form 128-B2, in accordance with subsection 3376(d)(5).

An investigative employee shall be assigned by the STG Unit Classification Committee Chairperson to assist the inmate with preparation for the STG Unit Classification Committee. The duties and functions of a staff member assigned to assist an inmate in the hearing on a validation will be the same as described in Sections ~~3318 and 3341~~ 3340 for Assistance to Inmates for Administrative Segregation Classification Hearings a disciplinary hearing. ~~When an inmate requests witnesses at this hearing, the investigative employee's duties and functions will be as described in Section 3318 and 3341 for predisciplinary hearing investigations.~~ In screening prospective witnesses, the investigative employee will do so in accordance with the information to be considered in the classification hearing. The investigative employee is designated to gather information for the STG Unit Classification Committee Chairperson and will submit a written report to the Chairperson which may include witness statements and a summary of the information collected.

The STG Unit Classification Committee shall review the validation package noting the recommendations of OCS and make the final determination on acceptance of the validation package based on the totality of the information.

Subsections 3378.2(d)(1) is deleted.

~~(1) If the STG affiliate is validated as an STG-I Member, the offender shall be referred to the Institution Classification Committee (ICC) for transfer and placement in Step 1 of the Step Down Program (SDP) in the Security Housing Unit (SHU) and Classification Staff Representative (CSR) for transfer consideration.~~

Subsections 3378.2(d)(1) through 3378.2(d)(1)(G) are added to read:

(1) The STG Unit Classification Committee shall ensure:

(A) Documents listed on the Security Threat Group Validation/Rejection Review (CDCR 128-B2) are correctly identified, dated, match the corresponding source item, and are present in the file. (I.e., Confidential memorandum, dated xx/xx/xxxx, authored by Officer X.)

(B) Source items and supporting documents must be stamped indicating the documents meet the criteria for prison gang/STG validation, or does not meet criteria.

(C) Any applicable Confidential Information Disclosure Forms were issued to the inmate and are present in the file.

(D) SHU eligible STG related behavior Rules Violation Report (RVR) includes:

1. Review of compliance with procedural safeguards, i.e. time constraints and assistance to the inmate, in accordance with existing policy and regulation.

2. The specific act charged includes an STG nexus and coincides with the description of the circumstances that describes the STG behavior for which the inmate was found guilty.

3. The evidence and/or circumstances support the finding of guilt.

4. The evidence used to establish the nexus to the STG behavior is supported and thoroughly documented by the Senior Hearing Officer.

5. The use of confidential information adheres to the standards for the consideration of and reliance upon in accordance with section 3321.

(E) CDCR Form 128-B3 (11/13), Security Threat Group Identification Score Sheet, CDCR Form 128-B4 (10/17), Evidence Disclosure and Interview Notification, and CDCR 128-B5 (10/17), Security Threat Group Validation Chrono with attached Inmate's Rebuttal are present in the file.

(F) All validation documents are accurate and complete, all non-confidential/confidential evidence was provided to the inmate by the STG investigator at least 72 hours prior to any validation review, determine correct validation designation and status, and appropriately document their decision on a CDC Form 128-G (10/89).

(G) Validated STG-I or STG-II cases are referred to a SHU CSR for audit and approval.

Subsection 3378.2(d)(2) is added to read.

(2) SHU CSR shall audit all STG-I and STG-II validations for accuracy and compliance with departmental regulations, in accordance with subsection (d) above. The CSR will approve the requested actions or return the case for corrections, referral to the Chief Deputy Warden, or, defer the requested actions upon discovery of any due process violations. If the case is returned, the CSR shall articulate the required corrections.

Subsection 3378.2(d)(2) is renumbered to 3378.2(d)(3) and is amended to read.

(23) If the STG affiliate is validated as an STG-I Member or Associate, and has one SHU eligible, STG related serious Rules Violation Report (RVR), within the previous two years, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.9(e), 3341.5(c)(9) SHU Term Assessment Chart, that is being used as a validation source item, the offender shall be referred to ICC by the STG Unit Classification Committee for program review and transfer consideration to Step 1 of the SDP in the SHU.

Subsection 3378.2(d)(3) is renumbered to 3378.2(d)(4) and is amended to read.

(34) If the STG affiliate is validated as an STG-II Member or Associate, and has two SHU eligible, STG related serious RVRs, within the previous four years, as listed in the section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.9(e), 3341.5(c)(9) SHU Term Assessment Chart, the offender shall be referred to ICC by the STG Unit Classification Committee for program review and consideration of placement transfer consideration to in Step 1 of the SDP in the SHU.

Subsections 3378.2(d)(4) through 3378.2(d)(6) are deleted.

~~(4) An inmate who is housed in the Administrative Segregation Unit pending validation, whose validation is rejected, and who does not have documented STG behavior or whose behavior is determined to be non-STG related, shall be scheduled for ICC for release to appropriate general population housing unless other case factors warrant retention.~~

~~(5) An inmate who is housed in general population, validated as a STG-I Associate or any STG-II affiliate and who does not have a serious STG related RVRs as listed in section 3378.4(a) STG Disciplinary Matrix or identified in section 3341.5(c)(9) SHU Term Assessment Chart, may not require referral to ICC and may be retained in appropriate general population housing.~~

~~(6) An inmate who is housed in general population, whose validation is rejected, and who does not have documented STG behavior, shall not require referral to ICC.~~

Subsections 3378.2(e) through 3378.2(e)(4) are deleted.

~~(e) Institution Classification Committee. When the UCC has recommended that an inmate be validated as a STG-I member, the ICC shall ensure there is sufficient evidence to warrant validation at the level of member. ICC will review the validation documents and all other case factors in their determination of appropriate housing. Any disagreement by the ICC with a STG-I member's validation and/or placement into the SDP shall be referred to the DRB for resolution. If the ICC concurs with the validation, the inmate's housing needs will be as follows:~~

~~(1) STG-I Member: Placement in Step 1 of the SDP at a SHU, as determined appropriate by ICC.~~

~~(2) STG-I Associate.~~

~~(A) If the validation source items include serious documented STG behavior or activity as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.5(c)(9) SHU Term Assessment Chart requires referral for transfer to Step 1 of the SDP at a SHU and endorsement by the Classification Services Representative (CSR).~~

~~(B) If the inmate has been found to be accountable for serious STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in Section 3341.5(c)(9) SHU Term Assessment Chart, which occurred since the date of the~~

Validation Interview, this will require consideration of referral for transfer to Step 1 of the SDP at a SHU and if necessary, endorsement by the CSR.

~~(C) If the validation source items do not meet the designated behavioral criteria for SDP placement release to general population unless the placement score or case factors have changed and the inmate requires further housing consideration.~~

~~(3) STG-II Member or Associate.~~

~~(A) If the validation source items include two occurrences, both of which have occurred within four years of the validation date, of serious documented STG behavior or activity, as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in Section 3341.5(c)(9) SHU Term Assessment Chart requires referral for transfer to Step 1 of the SDP at a SHU and endorsement by the CSR.~~

~~(B) If the inmate has been found to be accountable for serious STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in Section 3341.5(c)(9) SHU Term Assessment Chart, which occurred since the date of the Validation Interview, this will require consideration of referral for transfer to Step 1 of the SDP at a SHU and if necessary, endorsement by the CSR.~~

~~(C) If the validation source items do not meet the designated behavioral criteria for SDP placement release to general population unless the placement score or case factors have changed and the inmate requires further housing consideration.~~

~~(4) The date of the ICC's assessment and imposition of an Administrative SHU term for the SDP shall establish the start date toward completion of Step 1 of the SDP at a SHU. Applicable privileges, in accordance with Section 3044(i) shall be initiated upon the inmate's arrival at the SHU facility.~~

Subsections 3378.2(e) through 3378.2(e)(3) are added to read:

(e) Institution Classification Committee. If the ICC concurs with the validation, the inmate's housing needs will be as follows:

(1) STG-I Member or Associate.

(A) If the validation source items include SHU eligible STG related behavior as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.9(e), SHU Term Assessment Chart, requires referral to a SHU CSR for transfer consideration to Step 1 of the SDP at a SHU. Placement shall occur upon expiration/suspension of the inmate's controlling projected/assessed SHU term.

1. Audit/endorsement by a SHU CSR shall include review of the SHU eligible STG related RVR in the same manner described in subsection (d) above.

2. SHU CSR shall ensure the assessment of the SHU term is consistent with the charge and within departmental standards outlined in section 3341.9(e).

(B) If the inmate has been found to be accountable for SHU eligible STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in Section 3341.9(e), SHU Term Assessment Chart, which occurred since the date of the Validation Interview, this will require consideration of referral to a SHU CSR for transfer endorsement to Step 1 of the SDP at a SHU.

(C) If the validation source items do not meet the designated behavioral criteria for SDP placement, release to general population unless case factors have changed and the inmate requires further housing consideration.

(D) Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines

placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.

(2) STG-II Member or Associate.

(A) If the validation source items include two RVRs, both of which have occurred within four years of SHU eligible STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in Section 3341.9(e), SHU Term Assessment Chart, requires referral to a SHU CSR for transfer consideration to Step 1 of the SDP at a SHU. Placement shall occur upon expiration/suspension of the inmate's controlling projected/assessed SHU term.

1. Audit/endorsement by a SHU CSR shall include review of the SHU eligible STG related RVRs in the same manner described in subsection (d) above.

2. SHU CSR shall ensure the assessment of the SHU term(s) is consistent with the charges and within departmental standards outlined in section 3341.9(e).

(B) If the inmate has been found to be accountable for SHU eligible STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in Section 3341.9(e), SHU Term Assessment Chart, which occurred since the date of the Validation Interview, this will require consideration of referral to a SHU CSR for transfer endorsement to Step 1 of the SDP at a SHU.

(C) If the validation source items do not meet the designated behavioral criteria for SDP placement release to general population unless case factors have changed and the inmate requires further housing consideration.

(D) Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.

(3) The date of the ICC's imposition of SDP placement, shall establish the start date toward completion of Step 1 of the SDP at a SHU. Applicable privileges, in accordance with Section 3044(i) shall be initiated upon the inmate's arrival at the SHU facility. All time spent in the SHU following completion of the determinate SHU term prior to actual transfer into the SDP shall be credited as part of the inmate's SDP time.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

§ 3378.3. Security Threat Group Step Down Program.

Subsections 3378.3(a) through 3378.3(b)(9) are deleted.

~~(a) The Step Down Program (SDP) is an incentive based multi-step process for the management of Security Threat Group (STG) affiliates. The SDP is designed to monitor affiliates and assist with transition for return to a general population program setting.~~

~~(1) Participation in each step of the SDP shall require staff to provide the offender with CDCR Form 128B SDP1 (Rev. 06/14), Step Down Program Notice of Expectations (Step 1); CDCR Form 128B SDP2 (Rev. 06/14), Step Down Program Notice of~~

~~Expectations (Step 2); CDCR Form 128B SDP3 (Rev. 06/14), Step Down Program Notice of Expectations (Step 3); CDCR Form 128B SDP4 (Rev. 06/14), Step Down Program Notice of Expectations (Step 4); or CDCR Form 128B SDP5 (11/13), Notice of Conditions of Monitored Status (Step 5), all of which are incorporated by reference. The expectations shall outline the goals, expectations for successful completion, and potential consequences for failure to fully participate and complete each step.~~

~~(2) Regression in the SDP requires a finding of guilt for an STG related Rules Violation Report or failure to participate in SDP program activities.~~

~~(3) Each program step provides progressive programs and privileges and it is the responsibility of the affiliate to demonstrate they can be released to a less restrictive environment while abstaining from STG behaviors. Participation in program activities is required to progress forward within the SDP. Failure to participate in the SDP, in and of itself, will not be cause to generate a Rules Violation Report.~~

~~(4) If the offender chooses not to progress through any step of the program, the offender may be returned, by ICC, to one of the previous steps until they demonstrate appropriate behavior for movement into the next step. At any time the inmate wishes to begin participating in the SDP, they may notify their assigned counselor who will schedule their appearance before the ICC within 30 days.~~

~~(5) Information gleaned through inmate participation in program activities is not intended to be used to validate an inmate, initiate an investigation into STG related behavior, or identify/corroborate the involvement of other STG participants. However, information specifically intended to convey to staff the occurrence of past, present, or future STG threats of violence or disruption may be evaluated to maintain institutional and public safety.~~

~~(b) An offender's placement in the SDP is outlined in Section 3378.2(a). The offender's participation is voluntary; however, their progression through the SDP is dependent upon their active participation in the SDP.~~

~~(1) Validated affiliates in steps 1 and 2 shall be scheduled for appearance before the Institution Classification Committee (ICC) at least every 180 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Steps 1 and 2 are designed to be completed in 12 months each, but may be accelerated by ICC at the 180 day review. Criteria for the inmate to be retained in the step at the 180 day ICC review are as follows: 1) the inmate has not completed all required program components; and/or 2) the inmate has been found guilty of a RVR for STG related behavior. Successful completion of these steps will require program participation, compliance with program expectations, and completion of all required components/curriculum. Steps 1 and 2 are primarily intended as periods of observation.~~

~~(2) Validated affiliates in step 3 shall be scheduled for appearance before the ICC at least every 180 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of Step 3 will require a minimum of 12 months program participation, compliance with program expectations, completion of all required components/curriculum, and the inmate remaining free of STG disciplinary behavior.~~

~~(3) Validated affiliates in step 4 shall be scheduled for appearance before the ICC at least every 90 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of Step 4 will require a minimum of 12 months program participation, compliance with program expectations,~~

~~completion of all required components/curriculum, and the inmate remaining free of STG disciplinary behavior.~~

~~(4) Validated offenders who fail to comply with requirements of the SDP may be reviewed by ICC and may be subject to disciplinary sanctions and/or program step adjustment in accordance with section 3378.4(b).~~

~~(5) Upon successful completion of step 4, as determined by ICC and based on individual affiliate's behavior, a male offender shall be referred to the Classification Staff Representative (CSR) for endorsement to a Level IV facility, for a 12-month observation period (Step 5) regardless of the offender's placement score. When an inmate has completed the SDP and the institution head believes a transfer to an alternate Level IV institution or out-of-level placement is warranted, the institution head will refer the case to the DRB for decision.~~

~~(6) Upon the successful completion of step 4, as determined by ICC, a female offender will be reviewed by ICC for release to the general population for 12 months of observation and monitoring (step 5).~~

~~(7) Validated affiliates shall transition from SDP in a SHU to Step 5 and shall be identified as Monitored Status with a custody designation of Close B, as described in Section 3377.1, during the first 12 months assigned to the designated General Population facility or similar specialized housing, unless other case factors require a higher level of custody.~~

~~(A) Offenders shall receive orientation at the designated Step 5 institution. The orientation shall include, but not be limited to:~~

- ~~1. STG Investigator interview.~~
- ~~2. Referral to Mental Health.~~
- ~~3. Unit orientation.~~
- ~~4. Mandatory Urinary Analysis Testing (initial 12 months).~~
- ~~5. Initial Classification Committee to include attendance by the STG Investigator with consideration for rehabilitative program enrollment as identified through departmentally approved assessment tools (i.e., TABE), education, and STG management needs.~~
- ~~6. Establishment of 12-month observation period.~~

~~(B) Upon completion of the 12-month observation period (Step 5) with no documented evidence of continued STG behavior, the offender shall be referred to ICC for consideration of transfer to an appropriate facility consistent with his/her placement score and case factors.~~

~~(8) Upon transfer to appropriate housing, offenders shall continue to be identified as Monitored Status for potential recurrence of STG behavior or activities for an indefinite period of time. Monitored Status affiliates are subject to the following:~~

- ~~(A) Enhanced cell search occurrences as determined necessary.~~
- ~~(B) Enhanced mail scan.~~
- ~~(C) Enhanced telephone call monitoring.~~
- ~~(D) Periodic STG Investigator interviews.~~

~~(9) Participation in the SDP affords STG affiliates the opportunity to earn enhanced privileges consistent with their ability to reintegrate, effectively interact with others, and refrain from STG behavior/activities. STG affiliates participating in the SDP shall be placed in privilege group "S1" through "S4" in accordance with section 3044(i). Monitored Status affiliates (Step 5) will be allowed privileges associated with their assigned privilege group.~~

Subsections 3378.3 Presentence through 3378.3(b)(3) are added to read:

Participation in the SDP is based on the individual accountability of each inmate for proven STG behavior, and not solely on the inmate's validation status or level of STG affiliation.

(a) The SDP is an incentive based multi-step process for the management of STG affiliates. The SDP shall not exceed 24 months within the SHU; each step being 6 months in duration. The SDP is designed to assist validated STG affiliates with transition to a general population program setting.

(1) Validated affiliates in steps 1 through 3 shall be scheduled for appearance before the ICC at least every 180 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Validated affiliates in step 4 shall be scheduled for appearance before the ICC at least every 90 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of each step will require program participation, compliance with program expectations, completion of all mandatory components/curriculum, and the inmate remaining free of STG related disciplinary behavior. Each program step provides progressive programs and privileges and it is the responsibility of the affiliate to demonstrate they can be released to a less restrictive environment while abstaining from STG behaviors.

(2) Validated STG affiliates who are assigned to and participating in the SDP shall be assigned to a work group as follows:

(A) Inmates placed in Step 1, through 4 shall be assigned work group (WG) D1.

(3) Privilege group will be assigned in accordance with section 3044(i).

(4) Upon successful completion of step 4, as determined by ICC and based on the individual affiliate's behavior, the offender shall be referred to the CSR for transfer endorsement based on the offender's case factors and placement score.

(5) Participation in the SDP is mandatory for any inmate placed into the program. Non-participation or lack of completion that is due to the unavailability or inaccessibility of programming components necessary for SDP completion shall not impede an inmate's progress to the next step and shall not be considered as a factor in ICC's decision to progress the inmate.

(6) Information gleaned through inmate participation in program activities is not intended to be used to validate an inmate, initiate an investigation into STG related behavior, or identify/corroborate the involvement of other STG participants. However, information specifically intended to inform staff of the occurrence of past incidents, present, or future STG threats of violence or disruption may be evaluated to maintain institutional and public safety.

(7) The date of ICC's assignment to each step of the SDP shall establish the start date toward completion of the assigned step.

(b) An inmate's refusal to participate in or complete the required programming in the SDP shall not result in regression or retention in the program, but shall be addressed as follows:

(1) At the 180-day review conducted at the end of Step 3, if the committee determines that the inmate refused to participate in or has not completed all components of the SDP, ICC shall retain the non-participating inmate in Step 3 for an additional 6 months.

(2) If, during the additional 6 months in SHU SDP, the inmate participates in and completes all required programming (Steps 1 through 4), ICC shall release the inmate from the program and refer the case to the Classification Staff Representative (CSR) for transfer to appropriate general population housing commensurate with his case factors and placement score.

(3) If at the end of the additional 6 months, the inmate continues to refuse or does not complete all SDP components (Steps 1 through 4); the ICC shall remove the inmate from the program and transfer him to a Restricted Custody General Population (RCGP) facility. Pending transfer to the RCGP, the ICC shall establish the workgroup (WG) as A2 in accordance with section 3044(b)(3) upon transfer unless the inmate was previously deemed a program failure as defined in section 3000. The inmate shall be assigned to privilege group (PG) S3 or S4, respective to their assigned step.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

§ 3378.4. Security Threat Group Behavior or Activity.

Subsection 3378.4 Presentence is amended to read:

~~CDCR inmates shall not participate in STG activity or behavior. For validated affiliates, the consequences of continued confirmed STG behavior are outlined in the STG Disciplinary Matrix below. STG behaviors or activities included in the STG Disciplinary Matrix are separated into Administrative Rule Violations and Serious Rule Violations related behavior. The STG Disciplinary Matrix displayed in section 3378.4(a) identifies behavior that could be documented as having a nexus to STGs.~~

Subsection 3378.4(a) is amended to read:

~~(a) The STG Disciplinary Matrix. in conjunction with the SDP Placement Options addresses four categories of impacted affiliates:~~

- ~~• Validated STG-I Associates Initial Placement into the SDP from general population.~~
- ~~• STG-II Members or Associates Initial Placement into the SDP from general population.~~
- ~~• Validated STG affiliates assigned in the SDP, demonstrating continued STG behavior or activities.~~
- ~~• Validated STG affiliates on Monitored Status, Inactive Status, Inactive Monitored Status, or Dropout Status.~~

~~Condemned inmates are subject to section 3378.4(a).~~

The following behaviors and activities qualify as STG behavior, when a nexus has been established between the behavior and an identified STG. The nexus shall be clearly articulated in the specific act, as well as clearly described within the narrative of the associated Rules Violation Report (RVR) and Findings of the Senior Hearing Officer/Hearing Officer. The Senior Hearing Officer/Hearing Officer is required to clearly articulate the nexus to the STG related behavior in the Fact Finding and Disposition. If the Specific Act Section of the Rules Violation Report RVR and subsequent Fact Findings and Disposition do not clearly identify a nexus to STG behavior, the disciplinary process will proceed in accordance with Sections 3314 or 3315. behavior

is identified which violates section 3314 or 3315, it is staff's responsibility to ensure appropriate disciplinary procedures are applied.

STG DISCIPLINARY MATRIX		
Behavior/Activity With Nexus to STG	Administrative or Serious	SDP Placement Options* (Section 3378.4(b))
<p>Section 1:</p> <ul style="list-style-type: none"> a) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-offender or offender; b) Assault or battery capable of causing serious injury; assault or battery with a deadly weapon or caustic substance capable of causing serious injury, solicitation for offense; c) Taking a hostage; d) Possession of a firearm, explosive device, or weapon which has been manufactured or modified so as to have the obvious intent or capability of inflicting traumatic injury, and which is under the immediate or identifiable control of the offender; e) Escape or attempted escape with force or violence f) Rape, sodomy, or oral copulation against the victim's will. 	Serious	3378.4(b)(2) 3378.4(b)(3) 3378.4(b)(6) 3378.4(b)(7)
<p>Section 2:</p> <ul style="list-style-type: none"> a) Introduction, trafficking, or distribution of any Controlled Substance (as defined in Section 3000); b) Arson involving damage to a structure or causing serious bodily injury. c) Possession of flammable, explosive, or combustible material with intent to burn any structure or property; d) Extortion or threat by means of force or violence, including requiring payment for protection/insurance or intimidating any person on behalf of the STG; e) Threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staff's immediate family; f) Any other felony involving violence or injury to a victim and not specifically identified on this chart. 	Serious	3378.4(b)(2) 3378.4(b)(3) 3378.4(b)(5) 3378.4(b)(6) 3378.4(b)(7)
<p>Section 3:</p> <ul style="list-style-type: none"> a) Battery on a Peace Officer or non-offender not involving use of a weapon; b) Assault on a Peace Officer or non-offender by any means likely or not likely to cause great bodily injury; c) Assault or battery on a prisoner with no serious injury; 	Serious	3378.4(b)(2) 3378.4(b)(3) 3378.4(b)(5) 3378.4(b)(6) 3378.4(b)(7)

<ul style="list-style-type: none"> d) Destruction of state property valued in excess of \$400 dollars during a riot or disturbance; e) Theft, embezzlement, arson, destruction, or damage to another's personal property, state funds, or state property valued in excess of \$400; f) Any felony not involving violence or the use of a weapon not listed in this schedule with a direct nexus to STG Behavior. 		
<p>Section 4:</p> <ul style="list-style-type: none"> a) Bribery of a non-offender; b) Leading/Inciting a disturbance, riot, or strike; c) Participation in, or attempting to cause conditions likely to threaten institution security; d) Willfully resisting, delaying, or obstructing any peace officer in the performance of duties; e) Possession of cell phone or components; f) Acting in a leadership role displaying behavior to organize and control other offenders within the STG; 	<p>Serious</p>	<p>3378.4(b)(2) 3378.4(b)(3) 3378.4(b)(4) 3378.4(b)(5) 3378.4(b)(7)</p>
<p>Section 5:</p> <ul style="list-style-type: none"> a) Gambling; b) Tagging, or otherwise defacing state property valued at less than \$950, with symbols or slogans intended to promote affiliation with a STG. 	<p>Serious</p>	<p>3378.4(b)(2) 3378.4(b)(4) 3378.4(b)(7)</p>
<p>Section 6:</p> <ul style="list-style-type: none"> a) STG-related tattoos and/or body markings (new since most recent arrival in CDCR and not previously documented); b) Recording/documentation of conversations evidencing STG behavior; c) Harassment of another person, group or entity either directly or indirectly through the use of the mail, telephone, or other means; d) Communications between offenders/others evidencing STG behavior; e) Leading STG roll call; f) Directing cadence for STG group exercise; g) In personal possession of STG-related written material, including membership or enemy list, roll call lists, constitution, organizational structures, codes, training material, etc.; h) In personal possession of mail, notes, greeting cards or other communication (electronic or non-electronic) which include coded or explicit messages evidencing STG behavior; 	<p>Serious</p>	<p>3378.4(b)(2) 3378.4(b)(4) 3378.4(b)(7)</p>
<p>Section 7: Except as otherwise specified in this section, proven attempts to commit or an offender who conspires to commit any of the above listed offenses shall receive the</p>	<p>Serious</p>	<p>Identified in Section 3378.4(b)</p>

term range specified for that offense.		
<p>Section 8:</p> <ul style="list-style-type: none"> a) Participation in STG roll call; b) Participating in STG group exercise; c) Using hand signs, gestures, handshakes, slogans, distinctive clothing, graffiti which specifically relate to an STG; d) Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, emblems, badges, certified symbols, signs, or other STG items which promote affiliation in a STG; e) In possession of artwork, mail, notes, greeting cards, letters or other STG items clearly depicting certified STG symbols; f) In possession of photographs that depict STG association. Must include STG connotations such as insignia, certified symbols, or other validated STG affiliates. g) In possession of contact information (i.e., addresses, telephone numbers, etc.) for validated STG affiliates or individuals who have been confirmed to have assisted the STG in illicit behavior. 	Administrative	<p>3378.4(b)(1) 3378.4(b)(4) 3378.4(b)(7)</p>

Condemned inmates are subject to section 3378.4(a). SDP placement is not applicable to the condemned population.

Subsections 3378.4(b) through 3378.4(b)(7) are deleted.

~~(b) SDP Placement Options provide direction for placement into and movement within the SDP subsequent to initial validation based upon being found guilty of STG related behavior. Staff shall utilize the SDP Placement Options Column of the STG Disciplinary Matrix to determine the options available for consideration by the Institution Classification Committee (ICC). The date of the ICC's assessment and imposition of an administrative term of confinement shall commence counting toward completion of the specified step of the SDP.~~

~~(1) Initial Placement (subsequent to validation): ICC shall consider initial placement in the SDP when the validated affiliate has been found guilty of two STG related administrative rules violations within the preceding 12 months. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.~~

~~(2) Initial Placement (subsequent to validation): ICC shall consider initial placement in the SDP when the validated affiliate has been found guilty of one STG related serious rules violation. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.~~

~~(3) Initial Placement (subsequent to validation): ICC shall consider initial placement in the SDP when the validated affiliate has been found guilty of two STG related serious~~

~~rules violations which are also included in Section 3341.5(c)(9). ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.~~

~~(4) Active SDP Violators: ICC shall consider regression within the current step (1 & 12 months) upon a guilty finding for STG related behavior. Placement may be at any month within the current step to allow for completion of the balance of the step prior to moving forward to the next step.~~

~~(5) Active SDP Violators: If appropriate, assess and suspend SHU term (as authorized in Section 3341.5). ICC shall consider regression to the previous step (1 to 12 months) upon a guilty finding for STG related behavior. Placement may be at any month within the previous step to allow for completion of the balance of the step prior to moving forward to the next step.~~

~~(6) Active SDP Violators: If appropriate, assess and suspend SHU term (as authorized in Section 3341.5) upon a guilty finding for STG related behavior. ICC shall consider regression to Step 1 (1 to 12 months). Placement may be at any month within Step 1 to allow for completion of the balance of the step prior to moving forward to the next step.~~

~~(7) Monitored, Inactive, or Inactive-Monitored Status Violators: Placement at the beginning of Step 1. If appropriate, assess and suspend SHU term (as authorized in Section 3341.5). ICC shall consider placement in the SDP when the validated affiliate has been found guilty of two STG related administrative rules violations within the preceding 12 months or one STG related serious rule violation. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.~~

~~If offender has completed the SDP previously, he/she must normally serve 2 years in Step 1 of the SDP.~~

Subsections 3378.4(b) through 3378.4(b)(3)(B)4. are added to read:

(b) SDP Placement subsequent to initial validation shall be based upon being found guilty of SHU eligible STG related behavior, as follows:

(4) Initial Placement (subsequent to validation): ICC shall consider initial placement in the SDP when the validated STG-I affiliate has been found guilty of one SHU eligible STG related rules violation report, as identified in section 3378.4(a), STG Disciplinary Matrix, and which is also identified in section 3341.9(e), SHU Term Assessment Chart. Consideration of placement into the SDP will occur upon expiration/suspension of the inmate's controlling projected/assessed SHU term. Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.

(A) Endorsement by the Classification Staff Representative (CSR) shall include audit of the SHU eligible STG related RVR to ensure:

1. Review of compliance with procedural safeguards, i.e., time constraints and assistance to the inmate, in accordance with existing policy and regulations.

2. The specific act charged includes an STG nexus and coincides with the description of the circumstances that describes the STG behavior for which the inmate was found guilty.

3. The evidence and/or circumstances support the finding of guilt.

4. The evidence used to establish the nexus to the STG is supported and thoroughly documented by the Senior Hearing Officer.

5. The use of confidential information adheres to the standards for the consideration of and reliance upon in accordance with section 3321.

6. SHU CSR shall ensure the assessment of the SHU term is consistent with the charge(s) and within departmental standards outlined in section 3341.9(e).

(2) Initial Placement (subsequent to validation): ICC shall consider initial placement in the SDP when the validated STG-II affiliate has been found guilty of two SHU eligible STG related rules violation reports which are also included in Section 3341.9(e) within the preceding four (4) years. Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the offender shall be placed at the beginning of Step 1.

(A) Endorsement by the SHU CSR shall include audit of the SHU eligible STG related RVRs in the same manner described in section 3378.2(d). The CSR will approve the requested actions or return the case for corrections, referral to the Chief Deputy Warden, or defer the requested actions upon discovery of any due process violations. If the case is return the CSR shall articulate the required corrections.

(3) The commission of repeated STG violations while in the SDP shall be addressed as follows:

(A) Disciplinary Violations while in the SDP:

1. If an inmate has been found guilty of: three serious STG related; five administrative STG related; or a total of five serious and administrative STG related rules violation reports, as listed in 3378.4(a), STG Disciplinary Matrix, the inmate will be referred to the ICC.

2. The ICC shall review the inmate's disciplinary history and make this determination during the 180-day review performed at the end of Steps 3 and 4. If, during the Step 3 review, the inmate has been found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports, the ICC shall retain the inmate in Step 3 for an additional 6 months. Upon completion of the additional 6 months, the ICC shall refer the inmate to the CSR recommending placement in the RCGP.

3. If, during the second 90-day review in Step 4, the inmate has been found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports, the ICC shall refer the inmate to the CSR recommending placement in the RCGP. Pending transfer to the RCGP, ICC shall establish the WG as A2 in accordance with section 3044(b)(2) upon transfer unless inmate was previously deemed a program failure as defined in section 3000. The inmate shall be assigned to PG S3 or S4 respective to their assigned step, upon transfer.

4. The inmate may appeal the RCGP placement to the DRB, without delay of transfer, which would review the inmate's disciplinary history and determine whether removal from the program and transfer to the RCGP is appropriate in accordance with section

3084.9(j). A hearing before the DRB is not required for a determination on such an appeal.

(B) Determinate SHU Term:

1. If an inmate is found guilty of committing a SHU eligible offense while assigned to the SDP or RCGP, he shall complete the intervening determinate SHU term as imposed by the ICC before returning to the SHU SDP. The inmate will be returned to the same step from which he was removed; however, he shall not serve more than a total of 6 months in each step.

2. If the inmate is a validated STG-I member or associate and such SHU eligible offense has a proven nexus to the STG, upon completion/suspension of the determinate SHU term imposed by ICC, the inmate shall be returned to the SDP at Step 1 or another step as determined by ICC. This action restarts the 24-month time limitation for program participation in the SDP.

3. If the inmate is a validated STG-II member or associate and has been found guilty of one SHU eligible offense with a proven nexus to the STG (since placement in the SDP), upon completion/suspension of the determinate term imposed by ICC, the inmate shall be returned to the same step from which he was removed; however, he shall not serve more than a total of 6 months in each step.

4. If the inmate is a validated STG-II member or associate and has been found guilty of two SHU eligible offenses with a proven nexus to the STG (since placement in the SDP), upon completion/suspension of the controlling determinate SHU term imposed by ICC, the inmate shall be returned to the SDP at Step 1 or another step as determined by ICC. This action restarts the 24-month time limitation for program participation in the SDP.

Subsections 3378.4(c) through 3378.4(c)(9) are deleted.

~~(c) ICC shall consider placement in the SDP when the identified behavioral criteria has been met. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining placement in the SDP or continued management within a general population setting. If ICC determines placement in the SDP is warranted, the affiliate shall be placed at the beginning of Step 1. The STG Disciplinary Matrix shall be applied as follows:~~

~~(1) ICC shall consider a validated STG-I associate housed in the general population for one of the following with a demonstrated nexus to an STG:~~

~~(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.~~

~~(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.~~

~~(2) ICC shall consider a validated STG-II affiliate housed in the general population for the following with a demonstrated nexus to an STG: Being found guilty of two Serious Rules Violation Reports identified in Section 3378.4(a) STG Disciplinary Matrix which are also identified in Section 3341.5(c)(9) SHU Term Assessment Chart. Both behaviors must have occurred within the last four years.~~

~~(3) The STG Unit Classification Committee and ICC shall consider a dropout status affiliate housed in the general population for one of the following with a demonstrated nexus to an STG:~~

~~(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.~~

~~(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.~~

~~(C) The STG related behavior must have occurred after the dropout status affiliate's release from a Transitional Housing Unit (THU). In addition, the behavior or activity must identify the inmate as an active STG member or associate of the same STG with which the inmate was previously validated. If the STG related behavior or activity demonstrates a connection to a different STG, the information may be considered in the validation process and/or the disciplinary process, but shall not be used as the sole basis for placement of the inmate into the SDP.~~

~~(4) ICC shall consider a monitored status affiliate housed in the general population for one of the following with a demonstrated nexus to an STG:~~

~~(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.~~

~~(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.~~

~~(5) ICC shall consider an inactive status affiliate or inactive monitored status affiliate housed in the general population for one of the following with a demonstrated nexus to an STG:~~

~~(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within preceding last 12 months.~~

~~(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.~~

~~(6) ICC shall consider a validated affiliate for placement into Step 1 of the SDP at a SHU if all of the following are present:~~

~~(A) Behavior, activity or intelligence items as identified in section 3378.2(b) totaling at least 10 additional source points and identified subsequent to the initial validation process. This process shall only be utilized if the circumstances cannot otherwise be addressed through the disciplinary process; and~~

~~(B) STG related behavior is identified to have occurred while an inmate has been discharged, is on parole/probation, is out to court, is in federal/municipal custody, or otherwise outside of the CDCR's jurisdiction; and~~

~~(C) The source points must have a nexus to the STG to which the inmate was formally validated, and have occurred within the preceding four years.~~

~~(7) For confirmed STG behavior that is identified to have occurred while an offender is outside the jurisdiction of the CDCR, has been discharged, is on parole/probation, is out to court, or is in federal/municipal custody:~~

~~(A) A STG affiliate with confirmed STG behavior or intelligence from an outside law enforcement agency or which occurred outside the jurisdiction of the department or formal disciplinary process shall be documented in a CDC Form 128-B (Rev. 4/74), General Chrono, (marked "confidential", if appropriate), which is incorporated by reference. The activity or behavior must have occurred within the last four years. Investigators shall establish reliability per section 3321 when confidential information is used and shall be recorded within the chrono.~~

~~(B) Confirmed STG behavior may be used in the initial validation process of an inmate and/or be used to establish continued STG behavior of a validated affiliate that may warrant placement into the SDP.~~

~~(C) Investigative Staff shall be responsible to initiate or update a CDCR Form 128-B3 (11/13), Security Threat Group Identification Score Sheet, which is incorporated by reference, anytime confirmed STG behavior occurs and cannot be addressed through the disciplinary process.~~

~~(D) Confirmed STG behavior, activity, or intelligence items as identified in section 3378.2(b) Validation Source Criteria, which accumulates a total of at least 10 additional~~

source points during the preceding four years, and identified subsequent to the initial validation process, is subject to STG Unit Classification Committee and/or ICG review for placement into the SDP.

~~(8) A validated STG affiliate who was paroled or discharged from CDCR jurisdiction and returns to custody shall be addressed as follows:~~

~~(A) An inmate who was previously paroled or discharged with maximum (MAX) custody due to pending validation and is returned to CDCR's custody shall be placed in the Administrative Segregation Unit (ASU). The STG Investigator shall obtain the validation package to determine the status of validation and housing at time of parole/discharge. The validation process shall be completed, as necessary. After review by the STG Unit Classification Committee is completed, the inmate will be referred to ICG for appropriate housing determination.~~

~~(B) A validated STG affiliate who was previously paroled or discharged with MAX custody and is returned to CDCR's custody shall be placed in ASU. The STG Investigator will determine if there has been STG-related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICG in accordance with section 3341.5(c)(11), as appropriate.~~

~~(C) A validated STG affiliate who was previously paroled or discharged and was designated either inactive, inactive monitored, monitored, or dropout status and returns to the custody of the CDCR shall be assigned housing based upon current case factors. The STG Investigator will determine if there has been STG-related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICG in accordance with section 3341.5(c)(11), as appropriate.~~

~~(9) STG affiliates actively participating in the SDP, who are found guilty of a Rules Violation Report identified in the STG Disciplinary Matrix shall be reviewed by ICG within 14 days of completion of the disciplinary process.~~

Subsections 3378.4(c) through 3378.4(c)(3) are added to read:

(c) If a STG nexus is identified for an offense after the disciplinary process has been completed, for a SHU eligible offense, as listed in section 3341.9(e); this information will be referred to the STG Lieutenant, who will document the information and forward to the hiring authority or designee where the inmate is currently housed. The hiring authority shall refer this to the Chief Disciplinary Officer (CDO) to review the information/evidence and determine if the original RVR should be reissued/reheard based upon this new STG related information/evidence which was not available or reasonably discoverable at the time of the original disciplinary action. The CDO may consider the following options:

(1) If the inmate's MERD has been commuted for the original disciplinary offense; then no further disciplinary action would be warranted.

(2) If the inmate is serving the unexpired MERD for the original disciplinary offense, the CDO may order the RVR reissued/reheard, to include the STG nexus.

(3) If an ICC has suspended any portion of the SHU term for the original disciplinary offense, no further disciplinary action would be warranted.

Subsection 3378.4(d) remains unchanged. Subsection 3378.4(d) is shown to provide context.

(d) Offenders who are found guilty of a serious rule violation and assessed a determinate SHU term, shall be removed from the SDP and required to complete the

determinate SHU term. ICC may give consideration to suspending the remaining SHU term at each scheduled review.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.* (N.D. Cal., No. C94-2847).

§ 3378.5. Debriefing Process.

Subsection 3378.5 Presentence is added to read:

Debriefing is the process by which a STG coordinator/investigator determines whether an offender (subject) has dropped out of a STG. A subject shall be debriefed only upon his or her request, although staff may ask a subject if he or she wants to debrief. The Debrief Process may include a two-step process that consists of an interview phase (Phase I) and an observation phase (Phase II).

Subsection 3378.5(a) is deleted.

~~(a) Debriefing is the process by which a STG coordinator/investigator determines whether an offender (subject) has dropped out of a STG. A subject shall be debriefed only upon his or her request, although staff may ask a subject if he or she wants to debrief. Debriefing may include a two-step process that consists of an interview phase and an observation phase. An evaluation of the need for the observation phase will be based upon individual case factors including the STG affiliate's housing prior to beginning the debriefing process. ICC may elect to bypass placement in the Transitional Housing Unit (THU) if the offender was housed in general population. Offenders who were housed in segregated housing will normally complete the THU. Female offenders who complete the interview phase of the debriefing process shall complete the observation phase in a general population institution.~~

Subsection 3378.5(a) is added to read:

(a) CDCR has established a Debrief Processing Unit (DPU) to house inmates who are assigned to Phase I of the Debrief Process. A DPU may be established at any institution or facility the Department deems appropriate. An evaluation of the need for the observation phase will be based upon individual case factors including the STG affiliate's housing prior to beginning the debrief process. The observation phase of the Debrief Process shall begin when the inmate's autobiography is accepted and ICC changes his status to Post-Debrief Intake Panel (DIP). Time served in the observation phase may overlap with time spent in the interview phase. Time spent in the observation phase should be up to six months, as long as the inmate is actively participating in assigned program activities.

Subsection 3378.5(b) is amended to read:

(b) The purpose of the debriefing interview is to provide staff with information about the STG's structure, activities, and affiliates. A The debriefing process is not for the purpose of acquiring incriminating evidence against the subject. The object of a the debriefing process is to learn enough about the subject and the subject's current STG to: (1) allow staff to reasonably conclude that the subject has dropped out of the STG, and (2) allow

staff to reclassify the subject based upon the offender's needs in conjunction with the security of the institution, as well as, the safety and security of staff and other offenders. A requirement of the interview phase is that the offender provides staff an written autobiography of their STG involvement, which is then verified by staff for completeness and accuracy.

Subsections 3378.5(c) through 3378.5(f) are deleted.

~~(c) Offenders undergoing the debriefing process may be subject to a period of observation in a housing setting with other offenders who are also undergoing the debriefing process. The period of observation shall be up to 6 months in duration.~~

~~(d) Upon completion of the debriefing process, the offender shall be housed in a facility commensurate with the offender's safety needs. In the absence of safety needs, the offender shall be housed in a facility consistent with his or her placement score and other case factors.~~

~~(e) A waiver of the right against self-incrimination is not a precondition of an offender (subject) undergoing a debriefing since the information is provided for administrative purposes. A subject shall not be required to complete the debriefing process and the subject is free to terminate the debriefing at any time. If, during a debriefing, a subject makes a statement that tends to incriminate the subject in a crime, the Security Threat Group (STG) coordinator/investigator may stop any discussion about the matter and continue on with another topic. Prior to questioning the subject about the incriminating matter, the subject must waive the right against self-incrimination. The decision by the subject to exercise the right against self-incrimination shall not affect the determination of whether the subject successfully participated in the debriefing.~~

~~(f) -Condemned inmates are subject to the debriefing process as outlined in this section.~~

Subsection 3378.5(c) through 3378.5(i) are added to read:

(c) Inmates undergoing the debrief process may be subject to a period of observation (Phase II) with other inmates who are also undergoing the debrief process. The period of observation shall be up to 6 months in duration and may occur in the DPU or the Transitional Housing Unit (THU).

(d) Upon completion of the debrief process, the inmate shall be housed in a facility commensurate with the inmate's safety needs, placement score and other case factors.

(e) A waiver of the right against self-incrimination is not a precondition of an offender (subject) undergoing the debrief process since the information is provided for administrative purposes. A subject shall not be required to complete the debrief process and the subject is free to terminate the debrief process at any time. If, during the debrief interviews, a subject makes a statement that tends to incriminate the subject in a crime, the STG coordinator/investigator may stop any discussion about the matter and continue on with another topic. Prior to questioning the subject about the incriminating matter, the subject must waive the right against self-incrimination (Miranda). The decision by the subject to exercise the right against self-incrimination shall not affect the determination of whether the subject successfully participated in the debrief process.

(f) Inmates will be afforded expanded program opportunities as they progress through the DPU. Detailed information about the operation of the DPU is located in section 3378.7.

Upon receipt of notification of an inmate's intent to disassociate from an STG, the institutional STG investigator shall ensure the inmate has been placed in appropriate housing to address the inmate's safety in accordance with sections 3335 through 3338. The STG investigator shall contact the validated inmate within five business days of receipt of the notification to conduct an Initial Debrief Intake Interview.

The Initial Debrief Intake Interview document must be finalized and available at the initial ICC. During the initial ICC, the inmate will be notified of ICC's actions and will be referred for transfer to the DPU in accordance with section 3378.7(b). Exceptions to transfer by ICC will be for:

(1) inmates serving an active determinate SHU term. In this instance, the debrief process will continue at the respective SHU or ASU institution and upon resolution of the determinate SHU term, the inmate will be considered for transfer to a facility commensurate with his current programming needs, to include the DPU for Phase I or THU for Phase II.

(2) inmates awaiting appearance before the Board of Parole Hearings (BPH), shall be retained at the local institution until completion of the BPH process in advance of a transfer to the DPU for Phase I or THU for Phase II in accordance with section 3379(a)(3).

(3) inmates who have a disciplinary case pending review/acceptance by the District Attorney, shall be retained locally until completion of any projected/active MERD, in advance of a transfer to the DPU. Thereafter, the respective Wardens will coordinate subsequent transfer needs to address required court hearing(s).

(4) Subsequent to ICC, the STG investigator will issue the autobiography instructions to the inmate, who will have 30 days to complete and submit the autobiography. If the inmate meets one of the transfer exceptions, he is still expected to complete the autobiography within 30 days. The STG lieutenant, at the inmate's assigned institution, will collect the autobiography and forward it to the Office of Correctional Safety (OCS), Gang Intelligence Operations (GIO) Lieutenant for processing.

(g) Upon an inmate's arrival at the DPU, an OCS investigator shall meet with the inmate and collect the completed autobiography. If extenuating circumstances have prevented the inmate from completing the autobiography, the inmate may be issued an extension to complete their autobiography at the discretion of the OCS GIO Senior Special Agent. If the extension extends beyond 45 days (from the original date of assignment), the case shall be scheduled for a case conference to include the Captain, responsible for DPU, and the Senior Special Agent, Special Services Unit (SSU), OCS.

(1) If the inmate fails/refuses to complete the debrief process, the inmate shall be placed (or retained) in the ASU for review of potential safety concerns. The inmate will be scheduled for appearance before ICC to further assess their status to include evaluation of Work Group/Privilege Group and a determination of appropriate housing. Appropriate housing may include return to the SDP, return to General Population housing, or referral to the DRB.

(h) The completed autobiography, including those received from inmates who are not currently housed at DPU, will be presented by OCS staff to the DIP. The DIP is a committee comprised of DAI and OCS representatives who have a primary role to evaluate debrief cases and delegate case responsibilities based upon the complexities

of each case. The DIP is comprised of four members including one SSU Senior Special Agent, one representative from DAI at the level of Correctional Administrator, and two OCS GIO Lieutenants. A quorum will exist with the SSU Senior Special Agent, DAI representative, and one OCS GIO Lieutenant.

(1) Upon completion of each review, the DIP will determine one of two debrief categories and document the acceptance of the autobiography and the category chosen on a CDCR Form 128-B. The DIP will base their decision on the totality of case factors evidencing the inmate's status and behavior within the STG. The categories are defined as follows:

(A) Category 1 (Complex): Debriefs to be completed by the OCS GIO. Debriefs assigned to Category 1 will typically be inmates who have held a high ranking position within the STG; who have committed or participated in serious criminal activities, Division A and B offenses as listed in the current disciplinary matrix in the furtherance of the STG; and/or have had an extensive history with the STG. All debrief reports assigned to OCS GIO investigators will normally be completed within 90 business days of assignment.

(B) Category 2 (Less Complex): All other debriefs will be classified under Category 2. The OCS GIO Lieutenant will assign the debrief report to be completed by an institutional STG Investigator. All debriefs assigned to institutional STG Investigators will normally be completed within 60 business days of assignment. Debriefs will be assigned to institutional STG Investigators on a statewide rotating basis.

(i) Condemned inmates are subject to the debrief process as outlined in subsections (b), (e), and (h) of this section.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; and *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800.

§ 3378.6. Review and Action Following Receipt of Debrief Reports.

Subsection 3378.6 Presentence through 3378.6(d) are deleted.

~~Upon receipt of a completed Debrief Report by institution staff, the following process will be followed:~~

~~(a) STG investigative staff will review the report to identify inmates (other than the debriefing inmate) who are addressed in the report and currently housed at the institution.~~

~~(1) STG behavior or activity by the identified inmate which is documented in the Debrief Report shall be investigated by STG staff or their designee to establish facts in corroboration of the information being provided.~~

~~(2) Staff shall document the findings of the investigation in a CDC Form 128-B General Chrono (Rev. 4/74), which is incorporated by reference, marked "Confidential", or in memorandum. Staff shall prepare a CDCR Form 1030 (11/13), Confidential Information Disclosure Form, which is incorporated by reference, as appropriate, documenting as much information as can be disclosed without identifying the source.~~

~~(3) STG behavior or activity determined to have occurred within CDCR jurisdiction and within the previous four (4) years shall be reviewed by the STG Lieutenant or an appropriate Lieutenant to determine if the activity/behavior warrants issuance of Rules Violation Report, in accordance with section 3378.4(a) STG Disciplinary Matrix.~~

~~(4) Staff shall prepare an RVR, as appropriate, documenting the information as received from the confidential source and any pertinent information gleaned through the investigation.~~

~~(5) The disciplinary process will proceed as outlined in Sections 3310 through 3326, Inmate Discipline.~~

~~(6) Dependent upon the STG status/designation of the inmate, the completed RVR shall be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC in accordance with section 3378.6(c) for review of the inmate's activities/behavior.~~

~~(b) STG behavior or activity determined to have occurred outside the jurisdiction of the department or formal disciplinary process shall be documented in a CDCR Form 128-B (4/74), General Chrono. The completed CDC Form 128-B shall be referred to the STG Lieutenant for consideration of validation and/or referral to appropriate staff for the inmate's placement in the SDP in accordance with section 3378.4(c)(7).~~

~~(c) The ICC will consider information obtained from approved Debrief Reports as follows:~~

~~(1) STG related behavior or activities must have occurred within the last 4 years to be considered in making housing determinations.~~

~~(2) If the inmate is already in the SDP and the behavior occurred while he/she was in the SDP, utilize the SDP Placement Options as described in section 3378.4(b) to determine appropriate movement within the SDP.~~

~~(3) If the inmate is already in the SDP and the behavior occurred prior to his/her placement in the SDP, the inmate may be eligible for consideration of the Determinate SHU Term; however, there shall be no impact to the inmate's SDP placement.~~

~~(4) If the inmate is not in the SDP, addressing the behavior and/or housing needs will be in accordance with section 3378.4(c)~~

~~(d) Condemned inmates are subject to procedures outlined in section 3378.6.~~

Subsections 3378.6 Presentence through 3378.6(a)(3) are added to read:

Upon receipt of a completed Debrief Report by institution staff, the following process will be completed:

(a) STG investigative staff will review the report to identify inmates (other than the debriefing inmate) who are addressed in the report and currently housed at the institution.

(1) Serious STG behavior determined to have occurred within CDCR jurisdiction shall be reviewed by the STG Lieutenant or an appropriate Lieutenant to determine if the behavior warrants further investigation to establish facts/corroborate the information being provided and issuance of a Rules Violation Report, in accordance with section 3378.4(a) STG Disciplinary Matrix.

(2) Staff shall prepare a Rules Violation Report, as appropriate, documenting the information as received from the confidential source and any pertinent information gleaned through the investigation.

(3) The disciplinary process will proceed as outlined in Sections 3310 through 3326, Inmate Discipline.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor*(1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; and *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800.

Existing Section 3378.7 Transitional Housing Unit is renumbered to 3378.8 and amended.

New Section 3378.7 is adopted and entitled, 3378.7. Debrief Processing Unit.

§ 3378.7. ~~Transitional Housing Unit~~Debrief Processing Unit.

Subsections 3378.7 Presentence through 3378.7(h) are added to read:

CDCR has established a DPU to house inmates who are assigned to Phase I and Phase II of the debrief process. A DPU may be established at any institution or facility the Department deems appropriate. The DPU shall provide a safe housing location for those inmates who have decided to disassociate from a STG. Placement within the DPU is in accordance with section 3378.5. Inmates will be afforded expanded program opportunities as they progress through the DPU.

(a) The minimum eligible criteria for placement in the DPU shall consist of:

(1) The inmate must be validated.

(2) The inmate must have completed the Initial Debrief Intake Interview.

(3) The inmate must not be serving an active MERD.

(4) The inmate does not have a BPH scheduled, in accordance with section 3379(a)(3).

(5) The inmate does not have a disciplinary case pending review/acceptance by the District Attorney.

(b) Transfer to the DPU will be accomplished through the Strategic Offender Management System (SOMS) Non-Committee Endorsement process.

(c) When housing within the DPU has been determined by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the DPU, a conference call should be initiated to provide institutional staff with guidance concerning placement issues and privileges utilizing the case conference process with Classification Services Unit, Healthcare Placement Oversight Program (HCPOP), and the Division of Adult Institutions (DAI) Associate Director. This case conference shall be documented in the CDCR Form 128-G, Classification Chrono (Rev. 10/89). It is recognized that at times the inmate's overriding need for access to specific medical or mental health facilities will take priority over his housing in the DPU. These inmates should receive all privileges identified within this section, unless the privilege will create a significant security concern. If the hiring authority determines that the DPU privileges will be denied based on security concerns, the hiring authority shall contact the DAI Associate Director to obtain approval before denying the privileges.

(d) Inmates who have been received at the DPU, but who have not had their autobiography reviewed and accepted by the DIP shall be referred to as Pre-DIP and inmates who have had their autobiographies reviewed and accepted by the DIP shall be referred to as Post-DIP. Pre-DIP inmates shall normally be housed separately from Post-DIP inmates.

(e) Phase 1: Pre-DIP status.

(1) Inmates transferred for Phase I housing shall be assigned Pre-DIP status and Maximum custody until their autobiography has been reviewed and accepted by the DIP.

(2) All inmates participating in Phase I will be seen by ICC within 10 calendar days. Pre-DIP inmates will be scheduled for appearance before ICC, who will establish or affirm the inmate's work group and privilege group (WG/PG) consistent with NDS status unless the inmate was transferred from the SHU SDP or the RCGP. If the inmate was transferred to the DPU from the SHU SDP, he will retain his current WG/PG (S1 through S4). If the inmate is transferred to the DPU from the RCGP, he will retain his current WG/PG.

(3) Inmates will have access to yard and will be identified as Walk Alone. Yard will be a minimum of 10 hours per week.

(4) Inmates will be authorized to participate in non-contact visiting only.

(A) Non-contact visits are to be scheduled no less frequently than those afforded to inmates in restricted housing.

(B) Pre-DIP inmates are not eligible for Family Visits.

(5) Pre-DIP inmates are subject to application of mechanical restraints in accordance with section 3268.2.

(6) Pre-DIP inmates may participate in self-betterment programs and in-cell education.

(f) Phase 1: Post-DIP status.

(1) Upon acceptance of the autobiography by the DIP, the inmate will be scheduled for appearance before ICC within 10 days for movement/endorsement into the Post-DIP congregate housing program. During the ICC hearing, the committee will assign WG/PG and yard group.

Acceptance of the autobiography by the DIP recognizes that the inmate has demonstrated a significant level of sincerity in their desire to debrief, as well as establishes a foundation that their personal safety may be compromised if returned to a general population setting.

Acceptance of the autobiography by the DIP and ICC changing the inmate's status to Post-DIP will initiate the observation phase of the debrief process allowing for observation of the inmate while he is actively programming. Time spent as Post-DIP where the inmate is actively participating in assigned program activities shall be counted toward the observation phase of the debrief process.

(A) WG shall be established as follows:

1. An inmate who was transferred to the DPU from administrative segregation shall have his WG reverted to the WG assigned prior to placement in segregated housing.

2. An inmate who transitioned from the SHU SDP or was housed in the RCGP, due to failure to participate or because of receiving disciplinary reports while in the SDP, shall be assigned to WG A-2.

3. An inmate who was previously housed in the RCGP due to safety concerns, shall have his WG reverted consistent with the WG assigned while housed in the RCGP.

(B) PG shall be established as follows:

1. An inmate who was transferred to the DPU from administrative segregation shall have his PG reverted to the PG assigned prior to placement in segregated housing.

2. An inmate who transitioned from the SHU SDP or was housed in the RCGP, due to failure to participate or because of receiving disciplinary reports while in the SDP, shall be assigned to PG B.

3. An inmate who was previously housed in the RCGP due to safety concerns, shall have his PG reverted consistent with the PG assigned while housed in the RCGP.

(C) Once the inmate is endorsed as Post-DIP, he shall be considered for double cell housing in accordance with section 3269, as double cell housing is a required part of the Debrief Process unless precluded by ICC.

(D) A minimum of 10 hours of yard exercise per week will be provided pursuant to section 3343(h), incorporating yard interaction in a group yard setting with inmates of diverse affiliations. ICC will assign the inmate to the appropriate yard group.

(E) Post-DIP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned program hours.

1. Non-contact visits are to be scheduled no less frequently than those afforded to inmates in segregated housing.

2. Post-DIP inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.

3. Post-DIP inmates are not eligible for Family Visits.

(F) Use of restraint equipment shall be in accordance with section 3268.2.

(g) If the DPU inmate is found guilty of STG related behavior, identified in section 3378.4(a) STG Disciplinary Matrix, ICC shall determine the inmate's housing and program needs. Although the inmate meets the criteria for placement in the SHU SDP, ICC maintains discretion in evaluating an inmate's overall disciplinary record and case factors in determining return placement in the SDP, continued management within the DPU, or other appropriate housing, which may include referral to the DRB.

(h) In some instances, Phase II of the Debrief process may be completed at the DPU, when enemy, medical or other extenuating circumstances exist.

(j) When housing within the DPU has been determined appropriate by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the DPU, the inmate should be allowed to complete the Debrief process at an alternate location. Specific components of the process including the autobiography being submitted to the DIP for acceptance; the assignment of an investigator to complete the Debrief Report; the Debrief Report being approved by OCS; and a CDCR Form 128-B2, (Rev. 6/14) Security Threat Group Validation/Rejection Review, being issued for validation as a "drop out", are required and must be completed prior to the inmate being released to appropriate housing.

Note: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

Existing Section 3378.8 Termination of Security Threat Group (STG) Validation Status is renumbered to Section 3378.10 and amended.

Former Section 3378.7 Transitional Housing Unit was renumbered to 3378.8 and amended to read:

§ 3378.78. Transitional Housing Unit.

Subsections 3378.8 Presentence through 3378.8(b) are amended to read:

The Transitional Housing Unit (THU) shall provide a continued program of observation to evaluate that an inmate has successfully disassociated from STG activity behavior and is capable of programming in a general population (GP) setting. ~~Inmates must have completed the debriefing process from a validated STG, as described in section 3378.5,~~

~~in order to be placed into the THU.~~ Placement into the THU can be from either a Security Housing Unit, Debrief Processing Unit (DPU), or from GP. THU inmates shall be housed separately from other GP inmates due to potential safety concerns.

(a) The debriefing process is designed to review, monitor and evaluate each individual and ensure that the inmate participating in the debriefing process is not a threat to staff or other inmates, and has sincerely renounced all STG related activities. A period of observation ~~and adjustment may follow~~ is included in the debriefing process to ensure that an inmate will be able to program in a GP setting with inmates of diverse backgrounds, as well as other disassociated STG members/associates. STG affiliates housed in general population or similar specialized housing prior to beginning the debriefing process may bypass placement in the Transitional Housing Unit, as authorized by ICC. Female offenders who complete the interview phase of the debriefing process, shall complete the observation phase in a general population institution. The minimum eligible criteria to be placed into the THU shall consist of:

(1) The formal debriefing process as set forth in section 3378.5 must be satisfactorily completed ~~at the Institutional level through the STG Coordinator/Investigator,~~ and approved through the Office of Correctional Safety (OCS) via a completed CDC Form 128-B (4/74), General Chrono, which is incorporated by reference.

(2) The inmate must be willing to commit to personal change, pursuant to section 3378.5.

(b) The THU program observation phase of the debrief process shall be up to 6 months in duration consisting of components to include, but not be limited to, conflict resolution, anger control, substance abuse education, communication skills, individual counseling, educational skills, and group exercises. Inmates will be evaluated by the instructors throughout the program based on participation, behavior, and review of completed assignments. An inmate must be actively participating in the assigned program activities for the time to be counted toward completion of the observation phase.

Subsections 3378.8(c) through 3378.8(c)(1) remain unchanged.

Subsection 3378.8(c)(2) is amended to read:

(2) Inmates shall be advised that participation in all assignments and activities is mandatory, and STG related ~~activity~~ or behavior will not be tolerated. Any disciplinary behavior for which the inmate is found to be accountable through the disciplinary process, shall result in referral to the Institution Classification Committee for program review as described by section 3378.7.

Subsections 3378.8(c)(2)(A) through 3378.8(c)(3) are deleted.

~~(A) If the behavior identified in section 3378.7(c)(2) had a nexus to the STG and was identified in section 3378.4(a) STG Disciplinary Matrix and in CCR section 3341.9(e)5(c)(9), SHU Term Assessment Chart, consideration shall be given to removal of the inmate from the THU and return to Step 1 of the SDP in the SHU.~~

~~(B) If the behavior identified in section 3378.7(c)(2) did not demonstrate a nexus to the STG, consideration shall be given by the ICC to removal of the inmate from the THU and return to the step in the SDP where he was upon entering the debriefing process or being removed from SHU. If the inmate had not begun the SDP, he will be placed in Step 1 of the SDP in the SHU~~

~~(3) If the inmate elects to discontinue participation in the THU for non-disciplinary related reasons, the inmate shall be scheduled for ICC. ICC shall review the circumstances of the request and the inmate's case factors in determining appropriate placement in the SDP.~~

Subsection 3378.8(d) remains unchanged.

Subsection 3378.8(d)(1) is amended to read:

~~(1) Inmates shall be required to~~ be considered for double cell housing in accordance with the Department's Integrated Housing Policy as set forth in section 3269.4.

Subsections 3378.8(d)(2) through 3378.8(d)(4) remain unchanged.

Subsection 3378.8(e) is amended to read:

(e) Upon satisfactory completion of the THU program, inmates shall be referred to a classification committee for transfer consideration. Inmates failing to satisfactorily complete the THU program shall be referred to classification committee for determination of future program and housing needs or possible referral to DRB.

Subsection 3378.8(f) is added to read:

(f) When housing within the THU has been determined by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the THU, a conference call should be initiated to provide institutional staff with guidance concerning placement issues and privileges utilizing the case conference process with Classification Services Unit, HCPOP, and the DAI Associate Director. This case conference shall be documented in the CDCR Form 128-G, Classification Chrono (Rev.10/89). It is recognized that at times the inmate's overriding need for access to specific medical or mental health facilities will take priority over his housing in the THU. These inmates should receive all privileges identified within this section, unless the privilege will create a significant security concern. If the hiring authority determines that the THU privileges will be denied based on security concerns, the hiring authority shall contact the DAI Associate Director to obtain approval before denying the privileges.

Note: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

CCR Section 3378.9. Restricted Custody General Population is being adopted to read:

§ 3378.9. Restricted Custody General Population.

Subsections 3378.9 Presentence through 3378.9(i) are added to read:

The Restricted Custody General Population (RCGP) may be established at any institution or facility the Department deems appropriate and will provide a general population housing alternative for inmates who:

- have refused to participate/complete the Step Down Program (SDP);
- have been found guilty of repeated Security Threat Group (STG) Rules Violation Reports (RVR) while in the SDP; or

- have a substantial threat to their personal safety should they be released to the general population and are deemed appropriately housed, based upon a preponderance of evidence, by the Departmental Review Board (DRB).
- (a) Programming for those inmates housed in the RCGP will provide increased opportunities for positive social interaction with other prisoners and staff, including but not limited to: Alternative Education Program and/or small group education opportunities; yard (minimum of 10 hours per week) in small group yards as determined by ICC; access to religious services, support services job assignments and leisure time activity groups; access to GED, high school, and college level educational programs, with adequate academic support, and electrical appliances commensurate with the Authorized Personal Property Scheduled for the designated level of the facility.
- (b) All RCGP inmates will be scheduled for appearance before the Institutional Classification Committee (ICC) every 180 days in accordance with section 3376. For inmates with safety concerns, ICC shall verify whether there continues to be a demonstrated threat to the inmate's personal safety; and if such threat no longer exists the case shall be referred to the DRB for determination of appropriate housing.
- (c) All inmates participating in the RCGP will be placed on orientation status commensurate with the general population for a period of no more than 14 calendar days.
- (d) Application of restraint equipment for all RCGP inmates shall be in accordance with section 3268.2.
- (e) Inmates assigned to the RCGP due to refusal to participate in or complete the SDP shall be addressed as follows:
- (1) During the RCGP initial classification review, the ICC shall affirm the WG as A2 in accordance with section 3044(b)(2) unless the inmate was previously deemed a program failure as defined in section 3000, and provide the inmate with program expectations including completion of all components of the SDP. ICC shall affirm PG S3 or S4, respective of the assigned step.
 - (2) ICC may reassign the inmate to PG S4 based on his progression through the SDP components remaining to be completed.
 - (3) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.
 - (A) The inmate shall be allowed a minimum of one contact visit every 120 days if programming and no disciplinary violations for which the loss of privileges imposes a restriction on visiting. ICC shall have the discretion to increase this schedule to one contact visit every 90 days, on a case-by-case basis.
 - (B) Inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.
 - (C) Not eligible for Family Visits.
 - (4) If the inmate completes the SDP, while in the RCGP, and is not found guilty of either one serious STG related or two administrative STG related rules violation reports, as listed in section 3378.4(a), STG Disciplinary Matrix, during the 180-day review period, he will be considered for transfer to appropriate general population housing, commensurate with his case factors and placement score.

(5) If the inmate has completed the SDP but is found guilty of either: 1) one serious STG related rules violation; or 2) two administrative STG related RVRs; the ICC will retain the inmate in the RCGP and re-evaluate his behavior at his next 180-day ICC review. The inmate must remain disciplinary free of STG related behavior, as identified above, for a 180-day review period to be considered for release to general population housing. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining appropriate housing.

(6) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.

(f) Inmates assigned to the RCGP due to receiving rules violations while in the SDP, as described in the presentence of section 3378.9, shall be addressed as follows:

(1) During the RCGP initial classification review, the ICC shall affirm the WG as A2 in accordance with section 3044(b)(2) unless the inmate was previously deemed a program failure as defined in section 3000, and provide the inmate with program expectations including remaining free of disciplinary behavior. ICC shall affirm the PG S3 or S4 respective to their assigned step.

(2) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.

(A) The inmate shall be allowed a minimum of one contact visit every 120 days if programming and no disciplinary violations for which the loss of privileges imposes a restriction on visiting. ICC shall have the discretion to increase this schedule to one contact visit every 90 days, on a case-by-case basis.

(B) Inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.

(C) Not eligible for Family Visits.

(3) If the inmate completes the SDP components and, while housed in the RCGP, is not found guilty of either one serious STG related or two administrative STG related RVRs within the 180-day review period, he shall be referred to the ICC for determination of appropriate housing based on case factors and placement score. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining appropriate housing.

(4) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.

(g) Inmates assigned to the RCGP for safety needs shall be addressed as follows:

(1) During the RCGP Institutional Classification Committee, the assigned WG will be evaluated and retained unless case factors have changed which warrant modification of the assigned workgroup.

(2) The inmate shall be assigned a PG in accordance with section 3044(c). Privileges shall include:

(A) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.

1. The inmate shall be allowed a minimum of one contact visit every 60 days unless the inmate incurs a disciplinary violation for which the loss of privileges imposes a restriction on visiting.

2. Inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.

(B) Inmates will be allowed to participate in family visiting, in accordance with section 3177.

(C) Personal Property in accordance with the Authorized Personal Property Schedule for Level IV general population inmates.

(D) Telephone call shall be commensurate with assigned PG.

(3) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.

(h) If the RCGP inmate is found guilty of STG related behavior, identified in section 3378.4(a) STG Disciplinary Matrix, ICC shall determine the inmate's housing and program needs. Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining continued management within the RCGP or other appropriate housing.

(i) When housing within the RCGP has been determined by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the RCGP, a conference call should be initiated to provide institutional staff with guidance concerning placement issues and privileges utilizing the case conference process with Classification Services Unit, HCPOP, and the DAI Associate Director. This case conference shall be documented in the CDCR Form 128-G, Classification Chrono (Rev.10/89). It is recognized that at times the inmate's overriding need for access to specific medical or mental health facilities will take priority over his housing in the RCGP. These inmates should receive all privileges identified within this section, unless the privilege will create a significant security concern. If the hiring authority determines that the RCGP privileges will be denied based on security concerns, the hiring authority shall contact the DAI Associate Director to obtain approval before denying the privileges.

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

Former Subsection 3378.8, Termination of Security Threat Group (STG) Validation Status is renumbered to subsection 3378.10 and amended to read:

3378.810. Termination of Security Threat Group (STG) Validation Status.

Subsection 3378.10(a) remains unchanged. Subsection 3378.10(a) is shown to provide context.

(a) STG-I or STG-II Associates:

Subsections 3378.10(a)(1) through 3378.10(a)(1)(A) are amended to read:

(1) A validated STG-I or STG-II associate released from ~~Security Housing Unit (SHU) Step Down Program (SDP) to Step-5 general population~~; those cases determined to be inactive or dropout status; or those remaining in any type of general population housing, who remains free of STG disciplinary behavior for a period of six (6) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The six years will begin counting toward completion of the required time period as follows:

(A) Validated Associates released from ~~SHU SDP to Step-5 general population~~: the date committee approved release from segregation.

Subsection 3378.10(a)(1)(B) is deleted:

~~(B) Validated inmates released from SHU as Inactive or Inactive-Monitored: the date of the Departmental Review Board (DRB).~~

Subsections 3378.10(a)(1)(C) through 3378.10(a)(1)(D) are renumbered and the text remains unchanged.

~~(C)~~ Validated Associates who remain in general population housing: the date of initial validation

~~(D)~~ Dropout status inmates: the date of the CDCR Form 128-B2 (Rev. 06/14) Security Threat Group Validation/Rejection Review, which is incorporated by reference, changing their status to "Dropout".

Subsections 3378.10(a)(2) through 3378.10(a)(4) remain unchanged.

Subsection 3378.10(a)(5) is amended to read:

(5) Inmates who have had their STG status terminated shall be eligible to participate in any recognized housing/programs consistent with other general population inmates with similar case factors. If additional STG related ~~activity or~~ behavior is subsequently discovered, a new validation package shall be required to change the inmate's STG status.

Subsection 3378.10(b) remains unchanged. Subsection 3378.10(b) is shown to provide context.

(b) STG-I or STG-II Members:

Subsections 3378.10(b)(1) through 3378.10(b)(1)(A) are amended to read:

(1) A validated STG-I or STG-II member released from ~~SHU SDP to Step-5 general population~~; those cases determined to be inactive or dropout status; or those remaining in any type of general population housing, who remains free of STG disciplinary behavior for a period of eleven (11) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The eleven years will begin counting toward completion of the required time period as follows:

(A) Validated Members released from ~~SHU SDP to Step-5 general population~~: the date committee approved release from segregation.

Subsection 3378.10(b)(1)(B) is deleted:

~~(B) Validated inmates released from SHU as Inactive or Inactive-Monitored: the date of the Departmental Review Board (DRB) hearing.~~

Subsections 3378.10(b)(1)(C) through 3378.10(b)(1)(D) are renumbered and the text remains unchanged.

~~(CB)~~ Validated Members who remain in general population housing: the date of initial validation.

~~(DC)~~ Dropout status inmates: the date of the CDCR Form 128-B2 changing their status to "Dropout".

Subsections 3378.10(b)(2) through 3378.10(b)(4) remain unchanged.

Subsection 3378.10(a)(5) is amended to read:

(5) Inmates, who have had their STG status terminated, shall be eligible to participate in any recognized housing/programs consistent with other general population inmates with similar case factors. If additional STG related ~~activity or~~ behavior is subsequently discovered, a new validation package shall be required to change the inmate's STG status.

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

NAME	CDC NUMBER	INSTITUTION/PRISON	HOUSING
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On _____ an investigation was initiated into your suspected membership and/or association with a Security Threat Group (STG) I and/or STG II recognized by the California Department of Corrections and Rehabilitation as defined in Section 3000 of the California Code of Regulations. The investigation revealed sufficient evidence to identify you as a:

MEMBER ASSOCIATE DROPOUT OF THE STG I: _____ STG II: _____

An interview relative to this investigation and suspected STG affiliation shall be held not less than 72-hours from the date of this notification unless otherwise requested by you in writing. During this interview, you will be given an opportunity to be heard and have your opinion documented relative to the evidence considered in this validation. Written rebuttals may be submitted at the time of the interview.

BE ADVISED: ANY SHU ELIGIBLE STG RELATED BEHAVIOR WHICH OCCURS AFTER THE CONCLUSION OF THE STG VALIDATION INTERVIEW WILL BE DOCUMENTED, AND IF YOU ARE FOUND TO BE ACCOUNTABLE FOR THE BEHAVIOR, IT WILL BE CONSIDERED BY THE INSTITUTION CLASSIFICATION COMMITTEE FOR PLACEMENT IN THE STEP DOWN PROGRAM.

DISCLOSURE OF EVIDENCE

The following source documents were considered in your identification as a member or associate of the aforementioned STG. All confidential documents shall be disclosed via CDCR 1030, Confidential Information Disclosure Form. Each source document shall be identified by type (I.E. CDC 128-B, CDC 115, Confidential Report, etc.) and date of the report.

- SYMBOLS:
- WRITTEN MATERIALS (Not in Possession):
- ASSOCIATION:
- INFORMANTS:
- DEBRIEF REPORTS:
- WRITTEN MATERIALS (Personal Possession):
- PHOTOGRAPHS:
- STAFF INFORMATION:
- OTHER AGENCIES:
- VISITORS:
- COMMUNICATIONS:
- SELF ADMISSION:
- OFFENSES: (STG RELATED):
- TATTOOS AND/OR BODY MARKINGS:
- LEGAL DOCUMENTS:

Copies of all documents and/or disclosures were provided to the inmate as required per CCR Section 3378 and Departmental Operations Manual (DOM) by:

NAME	CLASSIFICATION	DATE	TIME
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(Print & Sign)

Additional comments: (Use this space to record any comments made by the inmate at the time of disclosure)

DISTRIBUTION: Original-C-File Copies-OCS, STG Investigator, Inmate

DATE:

NAME and NUMBER:

HOUSING:

On _____, the Security Threat Group (STG) Investigations Unit ~~initiated~~ completed an investigation of Inmate _____ (CDC #) regarding his current STG status. (*Hereafter* _____ *will be referred to as SUBJECT*) Per the California Code of Regulations (CCR) Title 15, Section 3378, there is sufficient evidence to refer SUBJECT to the STG Unit Classification Committee for consideration of validation as **Member/Associate** of the _____ STG.

The following documents are being submitted relative to this investigation:

- 1) **Source Document** _____
- 2) **Source Document** _____
- 3) **Source Document** _____

DISCLOSURE AND NOTIFICATION

Mental Health Assessment: Subject **is/is not** a participant in the MHSDS. Subject's reading level is _____ as indicated on _____ (DECS, TABE). Staff assistant **was/was not** assigned. If assigned Staff Assistant: **Staff member's name/title**, met with Subject at least 24 hours prior to the source item interview and **was/was not** present during the interview. Effective communication was achieved by _____.

On _____, at _____ hours SUBJECT was disclosed all information being utilized in the validation process. If applicable, SUBJECT was disclosed confidential information via CDCR Form 1030, Confidential Information Disclosure Form. SUBJECT was further advised an interview regarding the information obtained during this investigation would be held not less than 72-hours from the time of the disclosure.

INTERVIEW

On _____, at approximately _____ hours SUBJECT was interviewed regarding the documents utilized in the validation package. SUBJECT **provided/did not provide** a written response addressing all documents used in the review process.

SUBJECT provided the following verbal information related to the identified source items. (**Investigator to provide summary of validation interview**).

Subject was informed that any SHU eligible STG related behavior which occurs after the conclusion of the STG validation interview will be documented, and if he/she is determined to be accountable for the behavior, it will be considered by the Institution Classification Committee for possible placement in the Step Down Program.

CONCLUSION

Upon reviewing the written response and after a thorough review of the evidence, it was determined SUBJECT'S claims **have/have no** merit and **warrant/do not warrant** further investigation.

The STG Investigator has concluded there **is/is not** sufficient evidence to support referral to OCS and the STG Unit Classification Committee for consideration of validation as a **member/associate** of the _____ STG.

The aforementioned information will be forwarded to the Office of Correctional Safety for review of SUBJECT'S STG validation.

STG Investigator (Print & Sign)

STG Lieutenant (Print & Sign)

DISTRIBUTION: Original-C-File Copies-OCS, Investigative Unit, Inmate

DATE:

The Hiring Authority or designee shall complete when requesting a Security Threat Group (STG) Threat Assessment Certification/ Recognition by the Office of Correctional Safety. The completed forms shall be forwarded to the Office of Correctional Safety/Headquarters for review, approval and assignment of a STG assessment or certification and assignment of database codes for tracking and monitoring purposes.

REQUEST FOR STG I THREAT ASSESSMENT **REQUEST FOR STG II RECOGNITION**

REQUESTING HIRING AUTHORITY		
<u>NAME</u>	<u>TITLE</u>	<u>INSTITUTION / DIVISION/ OFFICE</u>
	Warden	
<u>ADDRESS</u>		<u>TELEPHONE NUMBER</u>
<u>SIGNATURE</u>	<u>DATE</u>	
_____	_____	
REQUESTING INSTITUTIONAL GANG INVESTIGATOR		
<u>NAME</u>	<u>TITLE</u>	<u>INSTITUTION / DIVISION/ OFFICE</u>
	STG- Lieutenant	
<u>ADDRESS</u>		<u>TELEPHONE NUMBER</u>
<u>SIGNATURE</u>	<u>DATE</u>	
_____	_____	

Submission of indicators of a proposed STG will be contained within this document to access/determine the assignment of a Threat Assessment investigation and/or a STG Certification or STGII Recognition. In order to make a determination regarding the Certification/ Recognition of the STG the below listed information is required:

STG Threat Assessment Certification/ Recognition request must contain the following information with attached supporting documentation:

A. NAME OF GROUP

B. NAME OF INSTITUTION

B. CRIMINAL ACTIVITIES

(Narrative - be specific with dates, incident log numbers, etc.)

C. HISTORY OF INCIDENTS, BEHAVIORS, AND ACTIONS OF THE GROUP

(Narrative - be specific with dates, incident log numbers, etc.)

C. DESCRIPTION OF HISTORY AND PHILOSOPHIES (if known)

(Narrative - be specific with dates and document descriptions where this information was collected from)

D. NUMBER OF OFFENDERS INVOLVED

D. DESCRIPTION OF RANKING STRUCTURE

(Narrative – be specific)

E. CURRENT HOUSING OF OFFENDERS IN GROUP

(GP, SNY, ASU)

E. DESCRIPTION OF RECRUITMENT METHODS OR STRATEGIES

(Narrative – be specific with dates and document descriptions where this information was collected from)

F. DESCRIPTION OF HISTORY AND PHILOSOPHIES (if known)

(Narrative – be specific with dates and document descriptions where this information was collected from)

F. DESCRIPTION OF IDENTIFYING SIGNS AND SYMBOLS

(Narrative – be specific with descriptions and photographs (if available))

G. DESCRIPTION OF RANKING STRUCTURE

(Narrative – be specific)

G. GEOGRAPHIC AREA OF ONSET

(Institution, if not institution based, be as specific as possible)

H. DESCRIPTION OF RECRUITMENT METHODS OR STRATEGIES

(Narrative – be specific with dates and document descriptions where this information was collected from)

I. DESCRIPTION OF IDENTIFYING SIGNS AND SYMBOLS

(Narrative – be specific with descriptions and photograph (if available))

J. ROSTER OF MEMBERS/ASSOCIATES/SUSPECTS

(Separate list may be attached)

For items C, F, G, H, and I – Submit copies of documentation supporting the statements included on this worksheet.

K. STAFF COMPLETING FORM

NAME: _____ RANK: _____ DATE: _____

L. SIGNATURE OF APPOINTING AUTHORITY

Warden _____ Date _____

Institution: _____

ACTION BY THE OFFICE OF CORRECTIONAL SAFETY

STGII Recognition

Accepted for STG II Recognition

Assigned STG II Code Number: _____

Rejected/Returned to Hiring Authority recommending further action

Specify Action requested:

STG I Threat Assessment

Accepted for STG I Threat Assessment

Assigned T/A Log Number: _____

Rejected/Returned to Hiring Authority recommending further action

Specify Action requested:

Reviewed/ Date

Senior Special Agent
Special Service Unit
Office of Correctional Safety

Reviewed/ Date

Special Service Unit
Office of Correctional Safety

APPROVED/DISAPPROVED

Chief
Office of Correctional Safety

Dated: _____

INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to adopt regulations, concerning changes in the Department's Security Threat Group (STG) Management policy.

Preamble

The management of gangs nationally in both communities and custodial settings has created an enormous challenge for law enforcement agencies. Gangs jeopardize public safety as they facilitate violence, drug trafficking, extortion and create substantial harm in prisons, jails and local communities. Managing criminal gangs requires a comprehensive strategy to identify involved gang members, target interdiction strategies, and remove their threat towards others. CDCR manages arguably the most violent and sophisticated STG members and associates in the nation. California STGs are routinely and consistently connected to major criminal activities in communities, including such crimes as homicides, drug trafficking, prostitution, human trafficking, and extortion. As such, the responsibility and challenges facing CDCR relative to the management of STGs are immense.

Background

STG problems throughout the country have grown more serious in both the local communities and correctional settings. STGs are largely responsible for criminal activities within the institutions, to include the trafficking of narcotics, committing and/or directing violence against staff and offenders, and directing criminal activity between the correctional institutions and the community.

Prisons are especially vulnerable to internal disruption by STG affiliates who, through their violent nature, routinely victimize each other, uninvolved offenders and staff, in addition to creating heavy demands on personnel and fiscal resources.

Through the use of past strategies, CDCR has learned that efficient and effective STG management within prisons requires a comprehensive STG prevention, identification, and management policy that includes interdiction and rehabilitation. CDCR's regulatory strategy, which was initially developed more than 28 years ago, sought to prevent crime through suppression. To combat gangs, CDCR identified the gangs with the greatest propensity for violence and separated the affiliated offenders from the general population by placing them into a Security Housing Unit (SHU) environment when the offender violated prison regulations in support of the gang.

In December 2009, a class action lawsuit (*Ashker v. The Governor of the State of California*) was filed, alleging that CDCR's gang management regulations and practices violate the Due Process Clause of the Fourteenth Amendment and that the conditions of confinement in Pelican Bay's SHU constitute cruel and unusual punishment in violation of the Eighth Amendment. In 2012, CDCR developed the Security Threat Group Identification, Prevention and Management policy including a change in terminology to include prison gangs, street gangs, and disruptive groups being referred to as STG. This revised policy was implemented as a pilot program and promulgated into regulations in 2014. The term STG is used in the Federal Correctional system and in many other states across the nation. The most significant changes in the 2012 policy were that not all validated affiliates were automatically placed in a SHU environment, development of a behavior based validation system, and establishment of behavioral criteria for determining when placement in the SHU and assignment to the Step Down Program was warranted.

This 2012 pilot program and 2014 regulations introduced a comprehensive strategy designed to:

- Provide graduated housing with increased program and privileges based on positive programming, as well as, consequences for non-compliance associated with STG related behaviors.

- Enable an offender to engage in reintegration from a SHU environment back to general population or a sensitive needs yard through a Step Down Program.
- Support and educate offenders desiring to disavow and/or disengage from the STG lifestyle.
- Prevent or reduce STG influence and STG violence.
- Provide additional levels of due process in the validation process.
- Promote safe and efficient prison operations.
- Weaken the organization and communication of the STG through intelligence and behavior based management strategies.
- Curtail the ability of STGs to participate in crimes that transcend the boundaries of the institution into the community.
- Provide programs designed to promote social values and behaviors in preparation for the offenders' return to the community.

Essential to achieving these goals was the continuing evolution of an existing intelligence network to identify and document STG related activities/behaviors and track STG trends. A sound strategy supported by reliable intelligence enhances the prison managers' ability to anticipate, prevent, respond and control STG problems rather than relying on defensive or reactive means of suppression and intervention.

The 2012 policy changes included an enhanced intelligence-based identification system needed to identify members, associates, and suspects who were believed to present a clear threat to the safety of staff, offenders, and the security of the institutions. This, in association with documented STG related behavior, provided prison managers the necessary information to make decisions regarding the appropriate housing and program needs for the offender. The 2012 policy supported CDCR's strategic plan through effective classification of offenders and placement of the right offender, in the right program, at the right time.

The policy changes were based on recommendations made by subject matter experts within the CDCR as well as consideration of strategies and best practices used by agencies outside of California. This complex retooling of CDCR's STG management strategy required significant changes to regulations, practices, and institutional culture to ensure success. The 2012 policy supported California's efforts toward establishing an updated model for managing STGs in a prison environment.

A Settlement Agreement resolving the *Ashker* litigation was reached in September 2015. As set forth in the settlement, CDCR agreed to promulgate regulations, policies, and procedures governing STG management and the Step Down Program. This regulation package is being submitted to comply with the federally approved Settlement Agreement.

Litigation

There have been several significant cases related to the Department's STG Management policies, in part, as described below. In adopting the 2012 STG management policies, the Department continued to adhere to the legal standards set forth in such cases.

Castillo vs. Alameida: Filed in August 1994, this lawsuit challenged the constitutionality of the STG validation procedures; the evidence used in his Plaintiff's individual validation; and whether or not the validation was the result of retaliation by prison officials for his Plaintiff's jailhouse lawyering and peace proposal activities. Plaintiff also challenged some of the physical conditions in the SHU at PBSP, as well as the psychological effects of long-term SHU confinement, which was dismissed on summary judgment in January 2004. A Settlement Agreement was reached in September 2004 which outlined various due process procedures to be provided to each offender at the pre-validation and inactive review stage. All components of this Settlement Agreement were incorporated into policy and procedures.

Ashker vs. Governor of the State of California: Filed on December 9, 2009, this lawsuit alleged that CDCR's gang management regulations and practices violate the Due Process Clause of the Fourteenth Amendment and that the conditions of confinement in Pelican Bay's SHU constitute cruel and unusual punishment in violation of the Eighth Amendment. A Settlement Agreement was reached in September 2015. Per the Settlement Agreement, CDCR shall not house inmates in SHU, Administrative Segregation, or Step Down Program solely on the basis of their gang validation status. The Agreement also made changes to CDCR's Step Down Program and the criteria under which an inmate may be placed on an Administrative SHU term. As part of the Agreement, CDCR agreed to promulgate regulations, policies, and procedures governing STG management and the Step Down Program, as set forth in the agreement.

REPORTS, STUDIES, AND DOCUMENTS RELIED UPON

These proposed regulations are based on recommendations made by subject matter experts within CDCR, as well as, consideration of strategies and practices used by agencies outside of California. They are also based on the United States District Court for the Northern District of California, Oakland Division, Settlement Agreement in the *Todd Ashker, et al., vs. Governor of the State of California* action. The Settlement Agreement was relied upon in developing these regulations.

ALTERNATIVES CONSIDERED

1. Take No Action

CDCR entered into the Settlement Agreement to address and settle claims for declaratory and injunctive relief regarding policies and practices of the CDCR for placing, housing, managing, and retaining inmates validated as prison gang members and associates in the SHU, as well as the conditions of confinement in the SHU at Pelican Bay State Prison and other CDCR SHU facilities. Therefore, taking no action is not a reasonable alternative.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates that these regulations will bring the Department into compliance with the *Ashker v. State of California* settlement agreement to address and settle claims for declaratory and injunctive relief regarding policies and practices of the CDCR for placing, housing, managing, and retaining inmates validated as prison gang members and associates in the SHU, as well as the conditions of confinement in the SHU at Pelican Bay State Prison and other CDCR SHU facilities.

LOCAL MANDATES:

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

FISCAL IMPACT STATEMENT:

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

EFFECT ON HOUSING COSTS:

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no effect on the health of California residents or the state's environment, because the proposed regulations relate strictly to the management of CDCR institutions.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

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

EFFECT ON SMALL BUSINESSES:

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

SPECIFIC PURPOSE OF EACH SECTION PER GOVERNMENT CODE 11346.2(B)(1)

3000. Definitions.

Section 3000 is being amended to add and alphabetically merge definitions associated with the revised Security Threat Group Identification, Prevention and Management policy into existing definitions.

Administrative Security Housing Unit (SHU) is defined to provide a standardized description of the term for staff and inmates and to comply with the definition established in the Settlement Agreement. The structure of this section has been changed based on comments from plaintiff's counsel requesting that additional clarification be included in the regulations. Clarification was made to note that continued retention on Administrative SHU status could only be approved if the inmate met the criteria identified in items (1) or (2) of the definition.

Debrief Processing Unit (DPU) is defined to provide a description of this new type of housing for inmates who are undergoing the Debrief Process.

Restricted Custody General Population (RCGP) is defined to provide a description of this new housing designation for inmates who meet criteria, which have been designated in the Settlement Agreement, for placement into this type of housing.

Section 3000 is being amended to revise definitions associated with the revised Security Threat Group Identification, Prevention and Management policy.

Affiliate is being changed to remove the reference to monitored status offenders. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate as a "monitored status offender" is no longer part of the revised process.

Behavior Management Unit (BMU) is being eliminated. This is necessary because the BMU is being eliminated as a housing designation and as a program alternative. In comparing the allowable property, workgroup, work assignments and privileges, it was noted that with implementation of the revised policy, privileges for BMU inmates are now more restrictive than those offered to inmates housed in restricted housing.

Confirmed STG Behavior is being amended to eliminate the references to “activities” and “continued STG behavior”. This is necessary because the validation system is a behavior based system and the term “activities” is being eliminated from the STG regulations. The term “continued STG behavior” spoke to a specific set of criteria that needed to be met and that specific set of criteria is being eliminated from the regulations.

Inactive Monitored Status Affiliate is being eliminated. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate as an “inactive monitored status affiliate” is no longer part of the revised process.

Inactive Status Affiliate is being eliminated. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate as an “inactive status affiliate” is no longer part of the revised process.

Monitored Status Affiliate is being eliminated. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate as a “monitored status affiliate” is no longer part of the revised process.

Prison Gang is being changed to remove the reference to credit earning and penal code 2933.6. This is necessary because the legislature has modified penal code 2933.6 and CDCR is currently developing regulations to address this change.

Security Threat Group Associate is being changed to add clarification. This is necessary because the language was incorrectly written during the previous regulation revision. The language should have included a reference to “involvement periodically or regularly with the members or associates of a STG”.

Step Down Program is being changed. This is necessary to reflect the changes that were agreed to in the Settlement Agreement, related to the Step Down Program.

Step Down Program, Step 1 and 2 SHU is being eliminated. This is necessary because the description included in the definition is no longer accurate based on changes that were agreed to in the Settlement Agreement.

Step Down Program, Step 3 and 4 SHU is being eliminated. This is necessary because the description included in the definition is no longer accurate based on changes that were agreed to in the Settlement Agreement.

Step Down Program, Step 5 is being eliminated. This is necessary because step 5 of the Step Down Program is being eliminated based on changes that were agreed to in the Settlement Agreement.

Transitional Housing Unit is being changed. This is necessary to modify the name of the Debriefing Process to Debrief Process. Also, to reflect that based on changes in the Settlement Agreement, the Department has decided that housing in the THU is discretionary, based on a variety of the inmate’s case factors.

Existing section 3023 title is amended to read:

§ 3023. Security Threat Group (STG) Behavior.

This amendment is being made to accurately reflect the change in terminology under the proposed regulations. The STG validation process is a behavior based system and references to “activity” are being removed.

Subsection 3023(a) remains unchanged.

Subsection 3023(b) is adopted to remove the references to “activity”. The STG validation process is a behavior based system and references to “activity” are being removed.

Subsections 3023(c) through Subsection 3023(d) remain unchanged.

Subsection 3023(e) is adopted to remove the references to “activity”. The STG validation process is a behavior based system and references to “activity” are being removed.

§ 3043.8. Impact of Transfer on Credit Earning.

Subsections 3043.8(a) through 3043.8(e)(1) remain unchanged.

Subsection 3043.8(e)(2) is adopted to remove references to the BMU. This is necessary because the BMU is being eliminated as a housing option and program alternative.

Subsection 3043.8(f) remains unchanged.

§ 3044. Inmate Work Groups and Privilege Groups.

Subsections 3044(a) through 3044(b)(1) remain unchanged.

Subsection 3044(b)(1)(A) is amended to establish that an inmate assigned to the Step Down Program will be assigned a work group in accordance with CCR, sections 3044(b)(5). This is necessary to create a referral to the appropriate sections of the regulations to identify the workgroup for a validated STG affiliate assigned to the STG Step Down Program. Additional modifications have been made to recognize another regulation package which is being promulgated on an emergency basis. These modifications address an exception which is created based on the establishment of a new work group.

Subsections 3044(b)(1)(B) through 3044(b)(4)(B) remain unchanged.

Subsections 3044(b)(5) through 3044(b)(6) are amended to establish the workgroup for validated STG affiliates assigned to the STG Step Down Program. This is necessary because of recent legislative changes to Penal Code section 2933.6 which no longer mandates zero credit earning for validated affiliates and compliance with the Settlement Agreement, which no longer allows a validated affiliate to be placed in the SHU based on validation status alone. Additional modifications have been made to recognize another regulation package which is being promulgated on an emergency basis. These modifications address when an inmate will be retained in Work Group D-1 or D-2, based on the establishment of new work groups.

Subsections 3044(b)(6)(A) through 3044(b)(9) remain unchanged.

Subsections 3044(c) through 3044(c)(6) remain unchanged.

Subsection 3044(c)(6)(A) is amended to restructure the format of this subsection. This is necessary because changes agreed to in the Settlement Agreement create more than one exception to the assignment of a privilege group for specifically identified inmates.

Subsections 3044(c)(6)(A)1. through 3044(c)(6)(A)4. are adopted to restructure the format of this subsection. This is necessary because changes agreed to in the Settlement Agreement create more than one exception to the assignment of a privilege group for specifically identified inmates. Additional modifications have been made to recognize another regulation package which is being promulgated on an emergency basis. These modifications provide non-substantive changes to provide clarification of the existing text.

Subsections 3044(c)(7) through 3044(c)(9) remain unchanged.

Subsection 3044(c)(10) is adopted to add information about privileges for an inmate assigned to a RCGP facility. This is necessary to comply with the Settlement Agreement and refer the reader to CCR, Title 15, Section 3378.9, where the privileges for an inmate assigned to a RCGP facility are described.

Subsections 3044(d) through 3044(g) remain unchanged.

Subsection 3044(g)(1) is amended to modify existing terminology to address the privilege group that will be assigned to inmates who are in Steps 1 – 4 of the Step Down Program or who have been placed on an Administrative SHU term and are requesting to debrief. This change is necessary because during implementation of the Settlement Agreement, the Department noted that inmates who were involved in the Debrief Process were no longer allowed to be retained in segregated housing. Based on this, the Department developed and implemented an alternate, appropriate, non-SHU, non-administrative segregation housing, to safely house an inmate participating in the Debrief Process. This change allowed the Department to comply with the Settlement Agreement. This specific section identifies privileges and non-privileges for validated affiliates who are transitioning to the DPU from the SHU Step Down Program. Additional modifications have been made to recognize another regulation package which is being promulgated on an emergency basis. These modifications provide non-substantive changes to provide clarification of the existing text.

Subsections 3044(g)(2) through 3044(i) remain unchanged.

Subsection 3044(i)(1) remains unchanged.

Subsection 3044(i)(2) is renumbered to 3044(i)(3) and relocated and remains unchanged.

Subsection 3044(i)(2) is adopted to add a reference about inmates being found guilty in a disciplinary hearing. This is necessary to establish that inmate misbehavior while in the Step Down Program is subject to assessment of one or more penalties as outlined in CCR, Title 15, Sections 3314 or 3315, in addition to addressing misbehavior, as outlined in the Settlement Agreement.

Subsection 3044(i)(3)(A) remains unchanged.

Subsections 3044(i)(3)(A)1. through 3044(i)(3)(A)9. are amended to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 1. This is necessary to comply with the Step 1 privileges outlined in Attachment A of the Settlement Agreement.

Subsection 3044(i)(3)(B) remains unchanged.

Subsections 3044(i)(3)(B)1. through 3044(i)(3)(B)9. are amended to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 2. This is necessary to comply with the Step 2 privileges outlined in Attachment A of the Settlement Agreement.

Subsection 3044(i)(3)(C) remains unchanged.

Subsections 3044(i)(3)(C)1. through 3044(i)(3)(C)9. are amended to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 3. This is necessary to comply with the Step 3 privileges outlined in Attachment A of the Settlement Agreement.

Subsections 3044(i)(3)(C)10. through 3044(i)(3)(C)11. are adopted to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 3. This is necessary to comply with the Step 3 privileges outlined in Attachment A of the Settlement Agreement.

Subsection 3044(i)(3)(D) remains unchanged.

Subsections 3044(i)(3)(D)1. through 3044(i)(3)(D)9. are amended to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 4. This is necessary to comply with the Step 4 privileges outlined in Attachment A of the Settlement Agreement.

Subsections 3044(i)(3)(D)10. through 3044(i)(3)(D)11. are adopted to reflect changes in privileges afforded STG affiliates who are participating in the Step Down Program, Step 4. This is necessary to comply with the Step 4 privileges outlined in Attachment A of the Settlement Agreement. Additional modifications have been made to recognize another regulation package which is being promulgated on an emergency basis. These modifications provide non-substantive changes to provide clarification of the existing text.

Subsections 3044(j) through 3044(j)(2)(H) are deleted to reflect that Step 5 is eliminated. This is necessary because the Settlement Agreement no longer allows a Step 5; therefore, the privileges associated with Step 5 are being eliminated.

Subsection 3044(j)(3) is renumbered to 3044(j)(4) and remains unchanged.

Subsections 3044(j) through 3044(j)(3)(I) are adopted to establish privileges for inmates who are placed on Administrative SHU status. This is necessary to comply with the privileges established for inmates who are placed on Administrative SHU status, as outlined in the Settlement Agreement.

§ 3084.9 Exceptions to the Regular Appeal Process.

Subsections 3084.9(a) through 3084.9(i)(6) remain unchanged.

Subsections 3084.9(j) through 3084.9(j)(8) are adopted to establish the process to be utilized when an inmate appeals a classification committee's decision to transfer him to the RCGP. This is necessary to comply with the Settlement Agreement. The text will establish the process to be utilized for appealing a RCGP housing decision to the DRB.

§ 3269. Inmate Housing Assignments.

Subsections 3269 Presentence through 3269(a) remain unchanged.

Subsection 3269(b) is adopted to add RCGP housing as a security concern to the bullet point on Security issues. This is necessary because the Settlement Agreement establishes the RCGP as a general population housing alternative and some of the inmates who will be housed in the RCGP will have safety or security issues which must be considered by the classification committee when determining appropriate housing.

Subsections 3269(c) through 3269(g) remain unchanged.

Section 3334 is repealed in its entirety. This is necessary because the BMU is being eliminated as a housing designation and as a program alternative. In comparing the allowable property, workgroup, work assignments and privileges, it was noted that with implementation of the Settlement Agreement, privileges for BMU inmates are now more restrictive than those offered to inmates housed in SHU or other restricted housing.

§ 3335. Administrative Segregation.

Subsections 3335 Presentence through 3335(a)(1)(A) are amended to add the language “inclusive of the Restricted Custody General population (RCGP) facility” and “CDCR staff shall not place inmates into a SHU, ASU, or the Step Down Program solely on the basis of their validation status.” to the existing text. This is necessary to comply with language developed and agreed to in the Settlement Agreement. The text in section (a)(1) is being modified to add the word “temporary” to clarify that placement in segregated housing can only be made on a temporary basis. The text in section (a)(1)(A) is being modified to add the words “investigation of” to provide clarification because in the past this language has been interpreted to mean that an inmate can be retained in administrative segregation and placed on Non-Disciplinary Segregation status as a long-term solution to the inmate’s safety concerns.

Subsections 3335(a)(1)(B) through 3335(e) remain unchanged.

§ 3337. Classification Hearing of Administrative Segregation Placements.

Subsections 3337(a) through 3337(c) remain unchanged.

Subsection 3337(c)(1) is amended to modify the reasons for which an inmate may be retained in an Administrative Segregation Unit (ASU). This is necessary to address changes agreed to in the Settlement Agreement and requires that inmates are no longer mandated to be placed in ASU pending completion of a validation investigation. The revised text also directs when an inmate may be retained in ASU upon expiration of their Minimum Eligible Release Date (MERD).

Subsections 3337(c)(2) through 3337(c)(3) remain unchanged.

Subsections 3337(c)(4) is adopted to remove the verbiage “excluding STG validation”. This is necessary to comply with the Settlement Agreement which no longer allows STG validation alone as a basis for placement of an inmate in segregation.

Subsections 3337(c)(5) and 3337(c)(6) are adopted to establish additional timeframes for the Institution Classification Committee (ICC) to review specific types of situations. This is necessary to establish timeframes for follow-up by the ICC when an inmate is pending transfer to the SHU Step Down Program or to the DPU. This will help to ensure that inmates are not delayed unnecessarily in being transferred or retained for an extended period of time in administrative segregation.

Subsections 3337(d) through 3337(e) remain unchanged.

§ 3341. Segregated Program Housing Units.

Subsections 3341(a) through 3341(c) are amended to institute the requirement for Departmental Review Board (DRB) reviews and establish the steps staff is required to take in preparing for the reviews. This is necessary to comply with the Settlement Agreement which requires the DRB to approve placement of any inmate on Administrative SHU status and also requires an annual review of any inmate who has been placed on Administrative SHU status.

Subsection 3341(d) remains unchanged.

Subsection 3341(e) is being adopted to direct that an inmate assigned to in-patient medical or mental health treatment shall receive credit toward completion of the Step Down Program. This is necessary to comply with the Settlement Agreement and direct staff that time spent away from the Step Down Program due to in-patient medical or mental health treatment, shall be counted by ICC as time toward completion of the Step Down Program. While this concept is not new, it has not been previously articulated in the regulations.

§ 3341.2. Psychiatric Services Unit.

Subsection 3341.2 Presentence through 3341.2(a) remain unchanged.

Subsection 3341.2(a)(1) is adopted to add verbiage to the reasons that an inmate may be placed in a Psychiatric Services Unit (PSU). This is necessary because as a result of implementing the Settlement Agreement, the CDCR determined that an inmate who is assigned in the SHU Step Down Program is no longer considered to be on Administrative SHU status. This determination was based on the established privileges for the two types of inmates. The Settlement Agreement outlines the privileges for each group and they are different. This change identifies the three types of inmates who may be considered for placement in a PSU, including an inmate serving a determinate SHU term, an inmate who is on Administrative SHU status, and an inmate who is assigned to the STG Step Down Program in SHU. Identification of these three types of inmates will assist the reader in identifying the type of privileges the inmate is eligible to receive.

Subsections 3341.2(a)(2) through 3341.2(b) remain unchanged.

Subsection 3341.2(c) is adopted to add the language “SDP program placement” to address the pending issues that a Classification Staff Representative (CSR) must address prior to approval for placement in a PSU. This is necessary because as a result of implementing the Settlement Agreement, an inmate who is assigned in the SHU Step Down Program is being added as a pending issue that must be addressed by the CSR prior to placement in the PSU.

Subsection 3341.2(d) remains unchanged.

§ 3341.3. Security Housing Unit

Subsection 3341.3 Presentence is amended to add the language “CDCR staff shall not place inmates into a SHU, Administrative Segregation Unit, or the SDP solely on the basis of their validation status.” This is necessary because the current validation process is a behavior based system, and the Settlement Agreement no longer allows STG validation alone as a basis for placement of an inmate in segregation. It will also clarify that a validated affiliate cannot be placed in restricted

housing based on validation alone. There are additional minor changes being made to provide clarity for the reader.

Subsections 3341.3(a) through 3341.3(a)(2)(D)4. are deleted. This is necessary because the descriptions included in these subsections are no longer accurate based on the Settlement Agreement.

Subsections 3341.3(a) through 3341.3(a)(1) are adopted to add the required language needed to limit the amount of time an inmate can spend in the Pelican Bay State Prison (PBSP) SHU. The addition of this new verbiage is necessary to comply with the language developed in the Settlement Agreement.

Subsection 3341.3(b) is deleted. This is necessary because the description included in this subsection is no longer accurate based on changes that were agreed to in the Settlement Agreement.

Subsection 3341.3(b) is adopted to add the required language needed to define the term continual restrictive housing. The addition of this new verbiage is necessary to comply with the language developed in the Settlement Agreement.

Subsection 3341.3(c) is deleted. This is necessary because the description included in this subsection is no longer accurate based on changes that were agreed to in the Settlement Agreement.

Subsections 3341.3(c) through 3341.3(e) are adopted to add the language needed to define the criteria required for an inmate to be placed in SHU. The addition of this new verbiage is necessary to comply with the language developed in the Settlement Agreement. The structure of this section has been changed based on comments from plaintiff's counsel requesting that additional clarification be included in the regulations. The language proposed for section 3341.3(c)(1)(D) has been transitioned into section 3341.3(c)(1). In addition, clarification was made to note that continued retention on Administrative SHU status can only be approved if the inmate met the criteria identified in sections 3341.3(c)(1)(A) or 3341.3(c)(1)(B).

§ 3341.5. Suspending Security Housing Unit Terms.

Subsections 3341.5(a) through 3341.5(c) are deleted. This is necessary to remove text that does not clearly describe the process, as agreed to in the Settlement Agreement, to be used for Determinate and Administrative SHU terms.

Subsections 3341.5(a) through 3341.5(a)(3) are adopted to establish the process to be utilized when suspending determinate SHU terms. This is necessary to comply with the Settlement Agreement and inform the inmate population of the process that must be followed when a determinate SHU term is being suspended or commuted.

Subsections 3341.5(b) through 3341.5(b)(4) are adopted to add language to direct the ICC that referral to DRB is required if a determination is made to release or retain the inmate on Administrative SHU status. The addition of this new language is necessary to comply with the Settlement Agreement. It is necessary to inform staff and the inmate population of the process that must be followed when a modification to an administrative SHU term is being considered.

§ 3341.6. Re-imposed Security Housing Unit Terms.

Subsections 3341.6(a) through 3341.6(a)(2) remain unchanged.

Subsection 3341.6(b) is amended to restructure this section of the regulations. This is necessary because, as a result of implementing the Settlement Agreement, the Department determined the existing text was no longer accurate due to changes to the criteria for establishing the three types of SHU terms. It was necessary to modify the existing process for re-imposing a SHU term for an inmate serving a determinate SHU term; serving an administrative SHU term; or assigned to the SHU Step Down Program. This section is modified to specifically describe the process for an inmate serving a determinate SHU term.

Subsections 3341.6(b)(1) through 3341.6(b)(3) remain unchanged.

Subsections 3341.6(c) through 3341.6(c)(3) are deleted. This is necessary because, as a result of implementing the Settlement Agreement, the Department determined the descriptions included in these subsections are no longer accurate. The existing text no longer accurately describes the process to be utilized in determining appropriate housing when a validated STG affiliate returns to CDCR custody.

Subsections 3341.6(c) through 3341.6(d)(5) are adopted to restructure this section of the regulations. This is necessary because, as a result of implementing the Settlement Agreement, the Department determined the existing text was no longer accurate due to changes to the criteria for establishing the three types of SHU terms. It was necessary to modify the existing process for re-imposing a SHU term for an inmate serving a determinate SHU term; serving an administrative SHU term; or assigned to the SHU Step Down Program. These sections specifically describe the processes for an inmate serving an administrative SHU term or an inmate who was assigned to the SHU Step Down Program. Additional text has been added based on comments from plaintiff's counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

§ 3341.8. Security Housing Unit/Psychiatric Services Unit Classification Hearings

Subsection 3341.8 Presentence remains unchanged.

Subsections 3341.8(a) through 3341.8(a)(2) are amended to add the language "with referral to the DRB on an annual basis" which will establish the requirement of a DRB annual review of the case. The addition of this new language is necessary to comply with language developed in the Settlement Agreement.

Subsections 3341.8(a)(2)(A) through 3341.8(a)(2)(C) are deleted. This is necessary because, as a result of implementing the Settlement Agreement, the Department determined the descriptions included in these subsections are no longer accurate.

Subsection 3341.8(a)(3) is renumbered to 3341.(a)(4) and is amended to modify the process to be utilized when a validated STG affiliate is requesting to debrief. This is necessary to transition to the language developed to move an inmate out of the SHU/restricted housing, when he no longer meets the requirement for retention, as outlined in the Settlement Agreement.

Subsection 3341.8(a)(3) is amended to modify an existing process for addressing release from SHU when a validated STG affiliate has requested to participate in the debrief process. This is necessary to transition to the language developed to facilitate an inmate's movement out of the SHU/restricted housing, when he no longer meets the requirement for retention, as outlined in the Settlement Agreement.

Subsections 3341.8(a)(4)(A) through 3341.8(a)(4)(D) are added to include the verbiage necessary to modify an existing process for addressing release from SHU when a validated STG affiliate has requested to participate in the debrief process. This is necessary to transition to the language developed to facilitate an inmate's movement out of the SHU/restricted housing, when he no longer meets the requirement for retention, as outlined in the Settlement Agreement.

Subsection 3341.8(a)(5) is deleted. This is necessary because, as a result of implementing the Settlement Agreement, the Department determined the description included in this subsection is no longer accurate.

Subsection 3341.8(a)(4) is renumbered to 3341.8(a)(5) and is amended to adjust the verbiage necessary to modify an existing process for addressing release from SHU when a validated STG affiliate has requested to participate in the debrief process. This is necessary to transition to the language developed to facilitate an inmate's movement out of the SHU/restricted housing, when he no longer meets the requirement for retention, as outlined in the Settlement Agreement.

Subsections 3341.8(a)(6) through 3341.8(a)(7) are adopted to add language to describe the criteria that will be utilized to determine the need for a classification committee to transfer an inmate to the RCGP. This is necessary to comply with the Settlement Agreement and to ensure inmates have an understanding of the behavioral expectations for retention in the SHU Step Down Program.

Subsection 3341.8(b) is amended to add the verbiage "the controlling" and "If the MERD was associated with a SHU term that had a STG nexus and the inmate is validated, the ICC shall consider transferring the inmate to the SHU Step Down Program at the completion of the controlling MERD." This is necessary to comply with the Settlement Agreement.

Subsections 3341.8(b)(1) through 3341.8(b)(2) remain unchanged.

§ 3341.9(e). SHU Term Assessment Chart

Subsections 3341.9(a) through 3341.9(d) remain unchanged.

Subsection 3341.9(d)(1) is adopted to establish that Classification Staff Representatives are required to review and approve SHU terms which have been identified to include an STG nexus. This is necessary because, through implementation of the Settlement Agreement, the Department determined it was necessary to add an additional level of review of a SHU term prior to the inmate being approved for transfer to a SHU Step Down Program. This extra layer of review will ensure that the evidence being used for placement in the Step Down Program is appropriate.

Subsection 3341.9(e) is adopted to establish new SHU offenses including the typical term for each. This is necessary to ensure compliance with Attachment B of the Settlement Agreement and to ensure inmates are aware of new STG related SHU offenses being added to the existing SHU Term Assessment Chart.

Subsections 3341.9(f) through 3341.9(f)(3) remain unchanged.

§ 3375. Classification Process.

Subsections 3375(a) through 3375(f)(7) remain unchanged.

Subsection 3375(g) is adopted to eliminate the sentence "The Security Threat Group Unit Classification Committee shall be documented on a CDCR Form 128-G1 (11/13), Security Threat Group Unit Classification Committee-Results of Hearing, which is incorporated by reference." This is

necessary because the CDCR Form 128-G1 has been determined to be obsolete and was not transitioned into the Strategic Offender Management System (SOMS). The STG Unit Classification Committee is utilizing the standard Classification Committee Chrono in SOMS to record any action taken by the classification committee.

Subsections 3375(g)(1) through 3375(l) remain unchanged.

§ 3375.1. Inmate Placement.

Subsections 3375.1(a) through 3375.1(a)(4)(A)2.(vi) remain unchanged.

Subsection 3375.1(a)(4)(A)3. is amended to direct that ICC no longer has the authority to evaluate housing of an inmate who is on Administrative SHU status. This is necessary to comply with the Settlement Agreement which requires DRB to have control of the inmate while he is on Administrative SHU status.

Subsections 3375.1(a)(4)(A)4. through 3375.1(b)(2) remain unchanged.

§ 3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(b)(10) remain unchanged.

Subsections 3375.2(b)(11) through 3375.2(b)(31) are renumbered and amended to eliminate some administrative determinants that are no longer being used, modify two administrative determinants, and to add one new administrative determinant. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate utilizing one of these administrative determinants is no longer part of the revised process. The new administrative determinant will be used to assist in tracking inmates who are currently in the Step Down Program or who have been assigned to the Step Down Program in the past. The two administrative determinants being modified will provide consistency with the current administrative determinants being used in SOMS.

§ 3376. Classification Committees.

Subsections 3376(a) through 3376(c)(4)(A) remain unchanged.

Subsection 3376(c)(4)(B) is amended to allow an employee who is acting in the capacity of a Correctional Counselor II (Supervisor) to perform the duties of the committee recorder for the STG Unit Classification Committee. This change is necessary to provide clarification to the existing regulation, which was being interpreted differently by various staff.

Subsections 3376(c)(4)(C) through 3376(d)(2)(D) remain unchanged.

Subsection 3376(d)(2)(E) is adopted to add the language “Review confidential information to ensure the standards for confidential information have been met, in accordance with section 3321”. This is necessary to establish the requirement that classification committees shall review confidential information to ensure that such information is appropriately designated as confidential. The Settlement Agreement provides that CDCR shall adhere to existing standards for consideration of and reliance on confidential information as set forth in CCR, section 3321.

Subsections 3376(d)(3) through 3376(d)(3)(D) remain unchanged.

Subsections 3376(d)(3)(D)1. through 3376(d)(3)(D)4. are adopted to establish the process to be used to conduct a safety investigation for offenders who have expressed safety concerns. This is necessary to protect an inmate's right to due process and ensure an inmate's housing is appropriate based on the identified concerns. It is also necessary to ensure staff have an established and consistent process to use when completing safety investigations.

Subsection 3376(d)(3)(E) remains unchanged.

Subsections 3376(d)(3)(F) through 3376(d)(5)(D) are amended to eliminate reference to a form. This is necessary because the CDCR Form 128-G1 has been determined to be obsolete and was not transitioned into the SOMS. The classification committees are utilizing the standard Classification Committee Chrono in SOMS to document committee action. Amending the language that describes classification committee responsibilities is necessary to establish the expectation to review confidential information. The Settlement Agreement provides that CDCR shall adhere to existing standards for consideration of and reliance on confidential information as set forth in CCR, section 3321. Additional text has been added based on comments from plaintiff's counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

Subsection 3376(d)(5)(E) is adopted to add the language "Review confidential information to ensure the standards for confidential information have been met, in accordance with section 3321". This is necessary to establish the requirement that classification committees shall review confidential information to ensure it is appropriately designated as confidential. The Settlement Agreement provides that CDCR shall adhere to existing standards for consideration of and reliance on confidential information as set forth in CCR, section 3321.

§ 3376.1. Departmental Review Board.

Subsections 3376.1 Presentence through 3376.1(d)(7) remain unchanged.

Subsection 3376.1(d)(8) through 3376.1(d)(10) are deleted. This is necessary because the existing language is no longer correct based upon responsibilities designated for the DRB in the Settlement Agreement.

Subsections 3376.1(d)(8) through 3376.1(d)(10) are adopted to add language that will establish criteria which requires referral to the DRB. This is necessary to comply with the Settlement Agreement and establish when a case must be referred to the DRB.

Subsection 3376.1(e) is renumbered to 3376.1(h) and remains unchanged.

Subsections 3376.1(e) through 3376.1(g) are adopted to add verbiage that will establish criteria to be used by the DRB in determining appropriate housing for inmates who are placed in alternate general population housing or on an administrative SHU term. This is necessary to comply with the Settlement Agreement and establish the criteria that must be used by the DRB.

Subsection 3376.1(i) is adopted to establish criteria for when an inmate may appeal a classification committee decision for placement in the RCGP to the DRB. This is necessary to comply with the Settlement Agreement and establish when an inmate may appeal a classification decision to the DRB.

§ 3378. Security Threat Group Identification, Prevention, and Management.

Subsections 3378(a) through 3378(b)(3) remain unchanged.

Subsection 3378(c) is amended to remove the verbiage “Gang” and add the verbiage “STG”. This is necessary because it was missed in the prior revision. This change provides consistent use of the term throughout the regulations. There is one additional minor change to provide clarity for the reader.

Subsection 3378(d) is adopted to add the verbiage “The terms STG nexus and STG related are used synonymously in this section.” This is necessary to ensure staff and the inmate population is aware that the terms STG nexus and STG related are used synonymously within the STG regulations.

§ 3378.1. Security Threat Group Certification Process

Subsections 3378.1 Presentence through 3378.1(c) remain unchanged.

Subsections 3378.1(c)(1) through 3378.1(c)(2) are amended to remove the language “Based upon their individual threat, clandestine operations, and/or influence over other STG affiliates, inmates who are validated as STG-I members will be placed in the Step Down Program and housed in a SHU based solely upon their validation. Validated STG-I associates will normally remain housed in general population, or similar specialized housing, unless confirmed STG behavior, as defined in section 3000, are present. If these behaviors are present, the STG-I associate will be considered by the Institution Classification Committee (ICC) for placement into the SDP pursuant to section 3378.4.” and “Validated STG-II members or associates will remain housed in general population or similar specialized housing unless two or more confirmed STG behaviors, as defined in CCR Section 3378.4, are present. If these confirmed STG behaviors are present, the STG-II member or associate will be considered by ICC for placement into the SDP.” This is necessary to comply with the terms of the Settlement Agreement.

Subsections 3378.1(d) through 3378.1(d)(3)(B) remain unchanged.

Subsection 3378.1(d)(3)(C) is amended to eliminate the term “activity”. This is necessary because the validation system is a behavior based system and the term “activity” is being eliminated from and/or replaced with the term “behavior” in the STG regulations.

Subsection 3378.1(e) remains unchanged.

Subsection 3378.1(e)(1) is amended to modify the process to be utilized when an institution or parole region submits a group for consideration as an STG-II. The previous process required the institution or parole region to submit a memorandum. The revised process requires the institution or parole region to submit a CDCR Form 128-B8, Security Threat Group Certification Worksheet to request recognition as an STG-II. This is not a new form, it was previously only used for requesting certification of an STG-I. This is necessary because it simplifies and standardizes the process to be utilized for requesting either recognition of a group as an STG-II or certification of a group as an STG-I. The form is also being revised and the revision date is being changed.

Subsections 3378.1(e)(2) through 3378.1(f)(4) remain unchanged.

§ 3378.2. Security Threat Group Validation Process

Subsections 3378.2 Presentence through 3378.2(a) remain unchanged.

Subsection 3378.2(b) is amended to eliminate the term “activity” and provide clarification to the inmate population by adding some additional verbiage. This is necessary because the validation

system is a behavior based system and the term “activity” is being eliminated from and/or replaced with the term “behavior” in the STG regulations. This section identifies the staff member(s) who are required to complete the CDCR Form 128-B3. This section also clarifies that a validated affiliate cannot be placed in restricted housing based on validation status alone. This section also establishes expectations regarding when an inmate should receive a Rules Violation Report.

Subsections 3378.2(b)(1) through 3378.2(b)(4) remain unchanged.

Subsection 3378.2(b)(5) is amended to eliminate the term “activity”. This is necessary because the validation system is a behavior based system and the term “activity” is being eliminated from and/or replaced with the term “behavior” in the STG regulations.

Subsection 3378.2(b)(6) remains unchanged.

Subsection 3378.2(b)(7) is amended to eliminate the term “activity”. This is necessary because the validation system is a behavior based system and the term “activity” is being eliminated from and/or is being replaced with the term “behavior” in the STG regulations.

Subsections 3378.2(b)(8) through 3378.2(c) remain unchanged.

Subsection 3378.2(c)(1) is amended to correct a grammatical error and reflect revision on the CDCR Form 128-B4, Evidence Disclosure and Interview Notification. This is necessary for the regulatory language to be grammatically correct and to update the revision date on the form.

Subsections 3378.2(c)(2) through 3378.2(c)(4) remain unchanged.

Subsection 3378.2(c)(5) is amended to remove the reference to (D) and reflect revision on the CDCR Form 128-B5, Security Threat Group Validation Chrono. This is necessary to correct an error in existing text and update the revision date on the form.

Subsection 3378.2(c)(6) remains unchanged.

Subsection 3378.2(c)(7) is amended to eliminate the reference to Parole Administrator I. This is necessary because the Parole Administrator I will no longer have assigned responsibility related to validation of an inmate.

Subsection 3378.2(d) is amended to modify the existing text to provide a reference to another section of the regulations which describes the role of an investigative employee. This is necessary to correct the references listed in this section based on changes made through other regulation revisions to other sections of the regulations.

Subsection 3378.2(d)(1) is deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsections 3378.2(d)(1) through 3378.2(d)(1)(G) are adopted to establish the expectation of the STG Unit Classification Committee Chairperson. This is necessary to ensure STG Unit Classification Committee Chairpersons are consistently reviewing required documentation and completing the various mandatory steps necessary to make a thorough and informed decision on the inmate’s validation. The Settlement Agreement requires CDCR to adhere to the standards for the consideration of and reliance on confidential information as set forth in CCR, section 3321.

Subsection 3378.2(d)(2) is renumbered to 3378.2(d)(3) and is amended to establish the criteria for an STG-I member or associate to be considered for placement in the SHU Step Down Program. This is necessary to comply with the Settlement Agreement and for the inmate population to be aware of the behavior expectations associated with SHU Step Down Program placement.

Subsection 3378.2(d)(2) is adopted to mandate the SHU CSR to conduct an audit of all STG-I and STG-II validations for accuracy and compliance with departmental resources. This is necessary because, through implementation of the Settlement Agreement, the Department determined it was necessary to add an additional level of review of all STG-I and STG-II validations. This extra layer of review will ensure that the evidence being used for validation is appropriate.

Subsections 3378.2(d)(4) through 3378.2(d)(6) are deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsection 3378.2(d)(3) is renumbered to 3378.2(d)(4) and is amended to establish the criteria for an STG-II member or associate to be considered for placement in the SHU Step Down Program. This is necessary to comply with the Settlement Agreement and to inform the inmate population of the behavior expectations associated with SHU Step Down Program placement.

Subsections 3378.2(e) through 3378.2(e)(4) are deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsections 3378.2(e) through 3378.2(e)(3) are adopted to establish the process that ICC will utilize in determining appropriate housing for validated STG affiliates. This is necessary to comply with the Settlement Agreement in determining appropriate housing for validated STG affiliates including General Population, Restricted Custody General Population, or restricted housing. Additional text has been added based on comments from plaintiff's counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

§ 3378.3. Security Threat Group Step Down Program.

Subsections 3378.3(a) through 3378.3(b)(9) are deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsections 3378.3 Presentence through 3378.3(b)(3) are adopted to provide an overview of the revised SHU Step Down Program which continues to be an incentive based multi-step process for the management of STG affiliates. This is necessary to comply with the Settlement Agreement and establish the way the revised Step Down Program will operate.

§ 3378.4. Security Threat Group Behavior or Activity.

Subsection 3378.4 Presentence is amended to establish the departmental expectation that CDCR inmates shall not participate in STG related behavior and notifies the inmate population that the STG Disciplinary Matrix identifies behavior that could be documented as having a nexus to STGs. This is necessary for the inmate population to be aware of the behaviors which may be considered to have a nexus with the STG. Much of the existing text is no longer correct based upon language agreed to in the Settlement Agreement.

Subsection 3378.4(a) is amended to remove all references to the Step Down Program Placement Options and the categories of inmates who might be impacted by the STG Disciplinary Matrix. This is necessary for the inmate population to be aware of the behaviors which may be considered to have a

nexus with the STG. Much of the existing text is no longer correct based upon language agreed to in the Settlement Agreement. Within this section the term “activities” was also removed, as the validation system is behavior based. This section, also, sets expectations for staff on when an inmate should receive a Rules Violation Report. Lastly, the reference to condemned inmates are being moved from before the chart to after the chart.

Subsections 3378.4(b) through 3378.4(b)(7) are deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsections 3378.4(b) through 3378.4(b)(3)(B)4. are adopted to establish the behavior criteria that will be utilized to consider an inmate for placement in the SHU Step Down Program, subsequent to validation. This is necessary to comply with the Settlement Agreement and inform the inmate population to be aware of the behaviors which may be considered to have a nexus with the STG and the behaviors which will be necessary for consideration of placement in the SHU Step Down Program. Additional text has been added based on comments from plaintiff’s counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

Subsections 3378.4(c) through 3378.4(c)(9) are deleted. This is necessary because the existing language is no longer correct based upon language agreed to in the Settlement Agreement.

Subsection 3378.4(c) is adopted to establish the process to be utilized by staff when addressing an STG nexus after the disciplinary hearing has been completed for a validated STG affiliate. This is necessary to ensure that staff has a structured process to follow when a STG nexus is confirmed to exist, but the inmate’s disciplinary process has been completed. This process will ensure that the inmate has due process through the disciplinary system prior to the STG nexus being formally applied to the Rules Violation Report.

Subsection 3378.4(d) remains unchanged.

§ 3378.5. Debrief Process.

Subsection 3378.5 Presentence is adopted to provide an overview of the Debrief Process. This is necessary for the offender population to gain an initial understanding of what the section will cover. This language was previously included elsewhere in CCR section 3378.5, the section is being reformatted to create a better flow of the information being presented.

Subsection 3378.5(a) is deleted. This is necessary because this section is being reformatted to create a better flow of the information being presented.

Subsection 3378.5(a) is adopted to introduce and explain the new Debrief Processing Unit (DPU) which is where most inmates who choose to initiate the Debrief Process will be housed. With changes in the Settlement Agreement associated with criteria for placement in segregated housing, the Department agreed that inmates who participate in the Debrief Process would no longer be housed in a segregated housing setting. Based on this agreement, it became necessary to establish a new housing unit and to implement a policy governing the operation of the DPU. The DPU will provide an alternate, appropriate, non-SHU, non-administrative segregation housing, to safely house an inmate participating in the Debrief Process and allow the Department to comply with the Settlement Agreement.

Subsection 3378.5(b) is amended to add language which will provide clarity to staff and the inmate population about the purpose of the debriefing interview. This is necessary to ensure consistency in

the terminology is being used within the text and clarity is provided regarding implementation of the process.

Subsections 3378.5(c) through 3378.5(f) are deleted. This is necessary because this section is being reformatted to create a better flow of the information being presented.

Subsection 3378.5(c) through 3378.5(i) are adopted to introduce and explain the Debrief Process which will be followed for all inmates who choose to initiate the Debrief Process. With changes in the Settlement Agreement associated with criteria for placement in segregated housing, the Department agreed that inmates who participate in the Debrief Process would no longer be housed in a segregated housing setting. Based on this agreement, it became necessary to establish a new housing unit and to implement a policy governing the operation of the DPU. The DPU will provide an alternate, appropriate, non-SHU, non-administrative segregation housing, to safely house an inmate participating in the Debrief Process and allow the Department to comply with the Settlement Agreement.

§ 3378.6. Review and Action Following Receipt of Debrief Reports.

Subsection 3378.6 Presentence through 3378.6(d) are deleted. This is necessary because this section is being reformatted to create a better flow of and enhance the information being presented.

Subsections 3378.6 Presentence through 3378.6(a)(3) are adopted to describe the process to be used by staff when they receive a completed Debrief Report which identifies inmates currently housed at the institution and who may have been involved in STG related behavior, as documented in the Debrief Report. This is necessary for the reader to gain an understanding of the process being followed in evaluating the information from the Debrief Report, to determine if further investigation is warranted.

CCR Section 3378.7 is being retitled to CCR 3378.7. Debrief Processing Unit. The Transitional Housing Unit section is being renumbered to 3378.8 and relocated.

§ 3378.7. Debrief Processing Unit.

Subsections 3378.7 Presentence through 3378.7(h) are adopted to authorize and introduce a new housing unit known as the DPU, which is designed to house inmates who are participating in the Debrief Process. This section will also explain the eligibility criteria for placement in the DPU, establish committee responsibilities including establishment of workgroup and privilege group, and designate timelines associated with these processes. With changes in the Settlement Agreement associated with criteria for placement in segregated housing, the Department agreed that inmates who participate in the Debrief Process would no longer be housed in a segregated housing setting. Based on this agreement, it became necessary to develop and implement a new housing unit and add the text to establish the operation in policy. Also, the inmate population will need to understand the policies associated with housing in the DPU. The DPU provides an alternate, appropriate, non-SHU, non-administrative segregation housing, to safely house an inmate participating in the Debrief Process and allow the Department to comply with the Settlement Agreement. Additional text has been added based on comments from plaintiff's counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

CCR Section 3378.8 is being retitled to CCR 3378. Transitional Housing Unit. The Termination of Security Threat Group (STG) Validation Status section is being renumbered to 3378.10 and relocated.

§ 3378.8. Transitional Housing Unit.

Subsections 3378.8 Presentence through 3378.8(b) are amended to modify existing regulatory text to eliminate the mandate that inmates must have completed the debriefing process from a validated STG to be placed into the THU. The amendments also add the word “continued” to clarify that the program of observation is continued, not a new program. The reference to “activity” is being removed and the word “behavior” is being added because the STG validation process is a behavior based system and references to “activity” are being removed. The phrase “and adjustment may follow” is eliminated and the words “is included in” are added. This describes the changes needed with the newly established DPU process. The words “at the Institutional level through the STG Coordinator/Investigator” are deleted because another section of the text describes the formal debrief process and these words are no longer accurate. The words “THU program” are removed and the words “observation phase of the debrief process” are added. This is a reference to the THU being part of the debrief process and not a stand-alone process. A sentence has been added which will establish that the inmate must be actively participating in the assigned program for the time to be counted toward completion. All of the above referenced changes are necessary to ensure consistency in the terminology being used within the text and clarity is provided regarding implementation of the revised debrief process.

Subsections 3378.8(c) through 3378.8(c)(1) remain unchanged.

Subsection 3378.8(c)(2) is amended to remove the term “activity” and add the verbiage “as described by section 3378.7”. This is necessary to ensure consistent terminology is being used within the text and clarity is provided to the reader. This is also necessary because the validation system is a behavior based system and the term “activity” is being eliminated from and/or replaced with the term “behavior” in the STG regulations.

Subsections 3378.8(c)(2)(A) through 3378.8(c)(3) are deleted. This is necessary because this section is being reformatted to create a better flow of the information being presented.

Subsection 3378.8(d) remains unchanged.

Subsection 3378.8(d)(1) is amended to remove the verbiage “required to”, add “considered for”, and add the word “housing” in the sentence. It is also necessary to remove the verbiage “the Department’s Integrated Housing Policy as set forth in” and change the CCR section that is referenced from 3269.1 to 3269. This is necessary to ensure consistent terminology is being used within the text and clarity is provided for the reader regarding implementation of the process.

Subsections 3378.8(d)(2) through 3378.8(d)(4) remain unchanged.

Subsection 3378.8(e) is amended to add the verbiage “or possible referral to DRB”. This is necessary to add the requirement that some cases will require referral to the DRB instead of all housing decisions being made by ICC, as required by the Settlement Agreement.

Subsection 3378.8(f) is adopted to describe the process to be followed when an inmate cannot be housed in the THU because medical, mental health, or other case factors preclude it. This is necessary to ensure the consistent application of program and privileges to all inmates who are participating in the Debrief Process. It is also critical for the reader to understand the process.

CCR Section 3378.9. Restricted Custody General Population is being added.

§ 3378.9. Restricted Custody General Population.

Subsections 3378.9 Presentence through 3378.9(i) are adopted to establish and introduce a new housing unit known as RCGP which is designed to house inmates who: 1) have refused to participate/complete the Step Down Program; 2) have been found guilty of repeated STG Rules Violation Reports while in the Step Down Program; or 3) have identified safety concerns which prevent release to general population and are deemed appropriate by the DRB. This section will also explain the eligibility criteria for placement in the RCGP, establish committee responsibilities including establishment of workgroup and privilege group, and designate timelines associated with these processes. This is necessary because this is a new housing unit and addition of the text will allow the agency to comply with the Settlement Agreement. Also, the inmate population will need to understand the policies associated with housing in the RCGP. Additional text has been added based on comments from plaintiff's counsel requesting that additional clarification be included in this section of the regulations. The additional text clarifies that an inmate must meet the criteria for placement in the SHU Step Down Program; ICC does not have the authority to place an inmate in the SHU Step Down Program who does not meet the identified criteria.

Subsection 3378.8, Termination of Security Threat Group (STG) Validation Status is being renumbered to subsection 3378.10

3378.10. Termination of Security Threat Group (STG) Validation Status.

Subsection 3378.10(a) remains unchanged. Subsection 3378.10(a) is shown to provide context.

(a) STG-I or STG-II Associates:

Subsections 3378.10(a)(1) through 3378.10(a)(1)(A) are amended to eliminate the reference to Step 5, as it is being eliminated to comply with the Settlement Agreement. The references to Security Housing Unit (SHU) are being changed to Step Down Program, to more clearly define the program from which the inmate is being released.

Subsection 3378.10(a)(1)(B) is deleted to eliminate references to Inactive and Inactive-Monitored administrative determinants. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate utilizing one of these administrative determinants is no longer part of the revised process.

Subsections 3378.10(a)(1)(C) through 3378.10(a)(1)(D) are renumbered and the text remains unchanged.

Subsections 3378.10(a)(2) through 3378.10(a)(4) remain unchanged.

Subsection 3378.10(a)(5) is amended to remove the reference to "activity". The STG validation process is a behavior based system and references to "activity" are being removed.

Subsection 3378.10(b) remains unchanged. Subsection 3378.10(b) is shown to provide context.

(b) STG-I or STG-II Members:

Subsections 3378.10(b)(1) through 3378.10(b)(1)(A) are amended to eliminate the reference to Step 5, as it is being eliminated to comply with the Settlement Agreement. The references to SHU are

being changed to Step Down Program, to more clearly define the program from which the inmate is being released.

Subsection 3378.10(b)(1)(B) is deleted to eliminate references to Inactive and Inactive-Monitored administrative determinants. This is necessary because the process for retaining and releasing inmates from the SHU has changed, in compliance with the Settlement Agreement, and identification of an inmate utilizing one of these administrative determinants is no longer part of the revised process.

Subsections 3378.10(b)(1)(C) through 3378.10(b)(1)(D) are renumbered and the text remains unchanged.

Subsections 3378.10(b)(2) through 3378.10(b)(4) remain unchanged.

Subsection 3378.10(a)(5) is amended to remove the reference to “activity”. The STG validation process is a behavior based system and references to “activity” are being removed.