

**State of California  
Office of Administrative Law**

**In re:**  
**Department of Corrections and  
Rehabilitation**

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:** 3270.3

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2022-0225-02**

**OAL Matter Type: Certificate of Compliance  
(C)**

---

This certificate of compliance makes permanent an emergency by operational necessity and adopts provisions governing the implementation of body worn cameras at the California Institution for Women; California State Prison, Corcoran, Kern Valley State Prison; California State Prison, Los Angeles County; Richard J Donovan Correctional Facility; and the Substance Abuse and Treatment Facility and State Prison, Corcoran.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

**Date:** April 11, 2022



---

**Mark Storm  
Senior Attorney**

**For:** Kenneth J. Pogue  
Director

**Original:** Kathleen Allison, Secretary  
**Copy:** Renee Rodriguez

# NOTICE PUBLICATION/REGULATIONS SUBMISSION

# CERT

STD. 400 (REV. 10/2019)

For use by Secretary of State only

<b>OAL FILE NUMBERS</b>	<b>NOTICE FILE NUMBER</b> Z-2021-0910-01	<b>REGULATORY ACTION NUMBER</b> 2022-0225-02C	<b>EMERGENCY NUMBER</b>
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**APR 11 2022**

2:03 pm

OFFICE OF ADMIN. LAW  
2022 FEB 25 PM 12:38

<b>AGENCY WITH RULEMAKING AUTHORITY</b> California Department of Corrections and Rehabilitation	<b>AGENCY FILE NUMBER (If any)</b> 21-09
--	---

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

<b>1. SUBJECT OF NOTICE</b>	<b>TITLE(S)</b>	<b>FIRST SECTION AFFECTED</b>	<b>2. REQUESTED PUBLICATION DATE</b>
<b>3. NOTICE TYPE</b> <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	<b>4. AGENCY CONTACT PERSON</b>	<b>TELEPHONE NUMBER</b>	<b>FAX NUMBER (Optional)</b>
<b>OAL USE ONLY</b> <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	<b>NOTICE REGISTER NUMBER</b>	<b>PUBLICATION DATE</b>	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

<b>1a. SUBJECT OF REGULATION(S)</b> Body-worn cameras	<b>1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)</b> 2021-0910-01, 2021-0708-01EON, 2021-1215-02
--	--

<b>2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)</b>						
<table border="1"> <tr> <td><b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b></td> <td><b>ADOPT</b> 3270.3</td> </tr> <tr> <td></td> <td><b>AMEND</b></td> </tr> <tr> <td><b>TITLE(S)</b> 15</td> <td><b>REPEAL</b></td> </tr> </table>	<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	<b>ADOPT</b> 3270.3		<b>AMEND</b>	<b>TITLE(S)</b> 15	<b>REPEAL</b>
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	<b>ADOPT</b> 3270.3					
	<b>AMEND</b>					
<b>TITLE(S)</b> 15	<b>REPEAL</b>					

<b>3. TYPE OF FILING</b>			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

**4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)**

<b>5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)</b>
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

<b>6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY</b>
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

<b>7. CONTACT PERSON</b> Renee Rodriguez	<b>TELEPHONE NUMBER</b> (916) 445-2220	<b>FAX NUMBER (Optional)</b>	<b>E-MAIL ADDRESS (Optional)</b> Renee.Rodriguez@cdcr.ca.gov
---	---	------------------------------	---

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

<b>DocuSigned by:</b> Jennifer Barretto	<b>R DESIGNEE</b>	<b>DATE</b> 2/25/2022
4BE5E58378FF4AF... Jennifer Barretto, Undersecretary, Administration		

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**APR 11 2022**

Office of Administrative Law

## TEXT OF ADOPTED REGULATIONS

### California Code of Regulations, Title 15: Crime Prevention and Corrections Division 3. Rules and Regulations of Adult Institutions, Programs, and Parole Chapter 1. Rules and Regulations of Adult Operations and Programs Subchapter 4. General Institutions Regulations Article 2. Security

New Section 3270.3 is amended to read.

#### **3270.3 Body-Worn Cameras**

(a) Correctional officers and correctional sergeants shall utilize body-worn cameras at the California Institution for Women; California State Prison, Corcoran; Kern Valley State Prison; California State Prison, Los Angeles County; Richard J. Donovan Correctional Facility; and the Substance Abuse and Treatment Facility and State Prison, Corcoran.

(b) Body-worn camera recording technology may be used to conduct after-the-fact reviews of triggering events involving use of force incidents, allegations of excessive or unnecessary force, and other staff and inmate misconduct.

(c) Body-worn cameras shall not be used to record confidential medical, dental, and mental health assessments, appointments, or consultations ~~health care~~.

Note: Authority cited: Sections 5058, 5058.3, Penal Code. Reference: Section 5054, Penal Code. *Armstrong v. Newsom* (No. 4:94-cv-02307-CW N.D. Cal.)

## FINAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR) incorporated by reference.

The Notice of Change to Text as Originally Proposed incorporated by reference.

### **UPDATES TO THE INITIAL STATEMENT OF REASONS:**

On September 24, 2021, the Notice of Proposed Regulations for the Body-worn cameras was published, which began the public comment period. The department's Notice of Change to Regulations #21-09 was also mailed the same day to individuals who had requested to be on the department's mailing list for regulation changes. In addition, they were posted on the California Department of Corrections and Rehabilitation (CDCR) website, and copies posted in CDCR institutions. The department received seven written comments, which are included below under *Summaries and Responses to the Written Public Comments Received During the Initial Comment Period*.

A request for a public hearing was received during the public comment period. CDCR subsequently posted and mailed a Notice of Public Hearing on December 8, 2021, announcing a teleconference public hearing, which occurred on December 15, 2021. There were no callers or comments received.

On December 15, 2021, the department submitted a request for readoption to the Office of Administrative Law (OAL) for the emergency regulations. On December 30, 2021, OAL approved the department's request for readoption and extended the emergency effect of these regulations through April 6, 2022.

On January 5, 2022, a 15-day re-notice was published, posted, and mailed. The revisions included in the re-notice include adding medical, dental and mental health in regards to assessments, appointments or consultations, and removing health care to provide clarity. No comments were received regarding the changes to the text.

### **DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:**

The department has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action proposed. No such alternatives were proposed or brought to the department's attention during the adoption of this rulemaking action.

The department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter CDCR's initial determination.

The department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (section 17561) of Division 4 of the Government Code.

The department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the department that would lessen any adverse impact on affected private persons or small businesses than the action planned.

Except as set forth and discussed in the summary and response to the comments received, no other alternatives have been proposed or otherwise brought to the department's attention that would alter the department's decision.

## **SUMMARIES AND RESPONSES TO THE WRITTEN PUBLIC COMMENTS RECEIVED DURING THE INITIAL COMMENT PERIOD:**

### **Commenter #1**

**Comment 1:** Commenter opposes the proposed regulations because the institution where he is currently housed, Correctional Training Facility (CTF), is not included as one of the institutions for the proposed regulations even though CTF has a large population of inmates with disabilities as defined by the American with Disabilities Act. Additionally, Commenter states that he was previously housed at Ironwood State Prison, which also has a large population of inmates with disabilities.

**Accommodation:** None

**Response 1:** Although the department houses inmates with disabilities at other facilities besides the five institutions listed. In March 2021, the court ordered CDCR's Correctional Officers and Correctional Sergeants at CIW, COR, KVSP, LAC, and SATF who may interact with disabled inmates to begin using BWCs within 60 days of the finalization of the Five Prisons Remedial Plan. The court's order does not permit alternatives to the BWCs requirement. Pursuant to the court's order, CDCR will implement BWCs at CIW, COR, KVSP, LAC, RJD, and SATF.

**Comment 2:** The commenter recommends the implementation of body worn cameras at all prisons, to equally protect all individuals both incarcerated or not. It should be fair to protect all from rape, abuse, and neglect.

**Accommodation:** None

**Response 2:** Pursuant to the court's order, CDCR will implement BWCs at CIW, COR, KVSP, LAC, RJD, and SATF. The Five Prisons Remedial Plan ordered all audio or video footage from these five prisons to be retained for a minimum of 90 days. All audio or video footage of incidents resulting in serious injury or death, allegations of use of force, inmate or staff misconduct, Prison Rape Elimination Act allegations, or other identified triggering events shall be retained for a minimum of 5 years. The department does not have the ability to protect individuals who are not incarcerated and housed with CDCR to protect them against rape, abuse and neglect.

### **Commenter #2**

**Comment:** Commenter suggests body worn cameras be implemented at California Correctional Institution, and feels body worn cameras would provide a safer environment.

**Accommodation:** None

**Response:** The implementation of body-worn cameras is due to court ordered, know as the Five Prisons Remedial Plan. The court's order does not permit alternatives to the BWCs requirement. Pursuant to the court's order, CDCR will implement BWCs at CIW, COR, KVSP, LAC, RJD, and SATF.

**Commenter #3**

**Comment:** Commenter states body worn cameras should have been implemented within the California Department of Corrections and Rehabilitation (CDCR) prior to 2021.

**Accommodation:** None

**Response:** Although the above comment does regard some aspect or aspects of the proposed regulatory action and must be summarized pursuant to Government Code section 11346.9(a)(3), the comment is either insufficiently related to the specific action, or too generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation of or accommodation to the comment.

**Commenter #4**

**Comment:** Commenter states he is in favor of correctional officers and correctional sergeants wearing body worn cameras. The commenter also states this policy will provide the department with much needed checks and balances.

**Accommodation:** None

**Response:** The department acknowledges the commenter's support of the proposed regulations. The above comment does regard some aspect or aspects of the proposed regulatory action and must be summarized pursuant to Government Code section 11346.9(a)(3), the comment is either insufficiently related to the specific action, or too generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation of or accommodation to the comment.

**Commenter #5**

**Comment:** Commenter strongly recommends the use of body worn cameras in all prisons. The use of body-worn cameras by staff would hopefully reduce misconduct and false claims by inmates. Commenter believes body worn cameras would be helpful to everyone except corrupt staff and lying inmates.

**Accommodation:** None

**Response:** In March 2021, the court ordered CDCR's Correctional Officers and Correctional Sergeants at CIW, COR, KVSP, LAC, and SATF who may interact with disabled inmates to begin using BWCs within 60 days of the finalization of the Five Prisons Remedial Plan. The court's order

does not permit alternatives to the BWCs requirement. Pursuant to the court's order, CDCR will implement BWCs at CIW, COR, KVSP, LAC, RJD, and SATF.

### **Commenter #6**

**Comment 1:** Commenter states it is about time, though CDCR has improved over the last three to five years, body worn cameras would have been beneficial sooner.

**Accommodation:** None

**Response 1:** The department acknowledges the commenters support of the proposed regulations. The remainder of the comment is personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, section 11346.9(a)(3).

**Comment 2:** The commenter states they are in favor of the use of body worn cameras at the selected prisons, however, request the department implement body worn cameras at High Desert State Prison next.

**Accommodation:** None

**Response 2:** In March 2021, the court ordered CDCR's Correctional Officers and Correctional Sergeants at CIW, COR, KVSP, LAC, and SATF who may interact with disabled inmates to begin using BWCs within 60 days of the finalization of the Five Prisons Remedial Plan. The court's order does not permit alternatives to the BWCs requirement. Pursuant to the court's order, CDCR will implement BWCs at CIW, COR, KVSP, LAC, RJD, and SATF.

**Comment 3:** The commenter request the department to specifically add wording to include RVR hearings be fully recorded and saved until the final court petitions challenging guilty findings are completed and final.

**Accommodation:** None

**Response 3:** The department acknowledges the commenter's request to extend the preservation of body worn camera footage, and has determined the requirements to preserve footage are substantive. Departmental policy states all camera and audio footage shall be retained for a minimum of 90 days. All camera and audio footage of use of force incidents and other triggering events involving the inmate population shall be retained indefinitely.

**Comment 4:** The commenter request the department to incorporate language that all staff handling property must be recorded and preserved until all court challenges are completed and resolved.

**Accommodation:** None

**Response 4:** The department acknowledges the commenter's request to extend the preservation of body worn camera footage, and has determined the requirements to preserve footage are substantive. Departmental policy states all camera and audio footage shall be retained for a

minimum of 90 days. All camera and audio footage of use of force incidents and other triggering events involving the inmate population shall be retained indefinitely.

**Commenter #7**

**Comment:** Commenter states he is housed at R.J. Donovan Correctional Facility and cameras work.

**Accommodation:** None

**Response:** The above comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, section 11346.9(a)(3).